4-2-91
Vol. 56 No. 63

federal register

Tuesday
April 2, 1991

United States
Government
Printing Office
SUPERINTENDENT
OF DOCUMENTS
Washington, DC 20402

OFFICIAL BUSINESS
Penalty for private use, $300

SECOND CLASS NEWSPAPER

Postage and Fees Paid
U.S. Government Printing Office
(ISSN 0097-6326)

4-02-91
Vol. 56 No. 63
Pages 13391-13574

federal register

Tuesday
April 2, 1991

Briefings on How To Use the Federal Register
For information on briefings in Miami, FL, Chicago, IL, and Washington, DC, see announcement on the inside cover of this issue.

FEDERAL REGISTER Published daily, Monday through Friday, (not published on Saturdays, Sundays, or on official holidays), by the Office of the Federal Register, National Archives and Records Administration, Washington, DC 20408, under the Federal Register Act (49 Stat. 500, as amended; 44 U.S.C. Ch. 15) and the regulations of the Administrative Committee of the Federal Register (1 CFR Ch. I). Distribution is made only by the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402.

The **Federal Register** provides a uniform system for making available to the public regulations and legal notices issued by Federal agencies. These include Presidential proclamations and Executive Orders and Federal agency documents having general applicability and legal effect, documents required to be published by act of Congress and other Federal agency documents of public interest. Documents are on file for public inspection in the Office of the Federal Register the day before they are published, unless earlier filing is requested by the issuing agency.

The seal of the National Archives and Records Administration authenticates this issue of the **Federal Register** as the official serial publication established under the Federal Register Act. 44 U.S.C. 1507 provides that the contents of the **Federal Register** shall be judicially noticed.

The **Federal Register** will be furnished by mail to subscribers for $340 per year in paper form; $195 per year in microfiche form; or $37,500 per year for the magnetic tape. Six-month subscriptions are also available at one-half the annual rate. The charge for individual copies in paper or microfiche form is $1.50 for each issue, or $1.50 for each group of pages as actually bound, or $175.00 per magnetic tape. Remit check or money order, made payable to the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402, or charge to your GPO Deposit Account or VISA or Mastercard.

There are no restrictions on the republication of material appearing in the **Federal Register.**

How To Cite This Publication: Use the volume number and the page number. Example: 56 FR 12345.

SUBSCRIPTIONS AND COPIES

PUBLIC

Subscriptions:

Paper or fiche	202–783–3238
Magnetic tapes	275–0186
Problems with public subscriptions	275–3054

Single copies/back copies:

Paper or fiche	783–3238
Magnetic tapes	275–0186
Problems with public single copies	275–3050

FEDERAL AGENCIES

Subscriptions:

Paper or fiche	523–5240
Magnetic tapes	275–0186
Problems with Federal agency subscriptions	523–5243

For other telephone numbers, see the Reader Aids section at the end of this issue.

THE FEDERAL REGISTER
WHAT IT IS AND HOW TO USE IT

FOR: Any person who uses the Federal Register and Code of Federal Regulations.

WHO: The Office of the Federal Register.

WHAT: Free public briefings (approximately 3 hours) to present:

1. The regulatory process, with a focus on the Federal Register system and the public's role in the development of regulations.
2. The relationship between the Federal Register and Code of Federal Regulations.
3. The important elements of typical Federal Register documents.
4. An introduction to the finding aids of the FR/CFR system.

WHY: To provide the public with access to information necessary to research Federal agency regulations which directly affect them. There will be no discussion of specific agency regulations.

MIAMI, FL

WHEN: April 18:
1st Session 9:00 am to 12 noon.
2nd Session 1:30 pm to 4:30 pm
WHERE: 51 Southwest First Avenue
Room 914
Miami, FL
RESERVATIONS: 1–800–347–1997

CHICAGO, IL

WHEN: April 25, at 9:00 am
WHERE: 219 S. Dearborn Street
Conference Room 1220
Chicago, IL
RESERVATIONS: 1–800–366–2998

WASHINGTON, DC

WHEN: May 23, at 9:00 am
WHERE: Office of the Federal Register
First Floor Conference Room
1100 L Street, NW, Washington, DC
RESERVATIONS: 202–523–5240 (voice); 202–523–5229 (TDD)

NOTE: There will be a sign language interpreter for hearing impaired persons at the May 23, Washington, DC briefing.

Contents

Federal Register

Vol. 56, No. 63

Tuesday, April 2, 1991

Separate Parts In This Issue

Reader Aids
Additional information, including a list of public laws, telephone numbers, and finding aids, appears in the Reader Aids section at the end of this issue.

CFR PARTS AFFECTED IN THIS ISSUE

A cumulative list of the parts affected this month can be found in the Reader Aids section at the end of this issue.

Federal Register
Vol. 56, No. 63
Tuesday, April 2, 1991

Presidential Documents

Title 3—

The President

Proclamation 6266 of March 29, 1991

National Safe Boating Week, 1991

By the President of the United States of America

A Proclamation

Providing means of irrigation, transportation, and energy production, the waterways of the United States have played an instrumental role in the development of American agriculture, commerce, and industry. Over the years, however, our country's most beautiful and accessible waterways have also become important centers of recreation. Indeed, it is estimated that, during this year alone, more than 19 million recreational boats will navigate America's lakes, rivers, and coastal waters.

While boating can be a wonderful source of recreation, improperly handled watercraft can be dangerous or even deadly. Tragically, approximately 900 persons die each year in boating-related accidents on our Nation's waterways. Because most accidents can be prevented, the United States Coast Guard and other government agencies are working with volunteer organizations around the country to educate the boating public and to make safety the first priority of all who use the Nation's waterways.

During National Safe Boating Week, proclaimed annually at the start of the summer boating season, recreational boaters are urged to accept the responsibility to "Know Before You Go." Every pilot should have thorough knowledge of his or her vessel and the rules and courtesies of navigation. All boaters should know the marine environment in which they will be operating, as well as the prevailing and forecasted weather conditions in the area. Making safety the first priority also requires that boaters be prepared to respond, immediately and effectively, to any hazardous situation that may arise; it requires that all persons using watercraft be equipped with life jackets; and, of course, it requires that no one operate a watercraft while under the influence of alcohol or drugs.

By emphasizing safety first, we can put tragic boating accidents behind us and enjoy more fully the beauty and excitement of the open water.

In recognition of the need to promote safe boating practices, the Congress, by joint resolution approved June 4, 1958 (36 U.S.C. 161), as amended, has authorized and requested the President to proclaim annually the week commencing on the first Sunday in June as "National Safe Boating Week."

NOW, THEREFORE, I, GEORGE BUSH, President of the United States of America, do hereby proclaim the week beginning June 2, 1991, as National Safe Boating Week. I encourage the Governors of the States and Puerto Rico and officials of other areas subject to the jurisdiction of the United States to provide for the observance of this week.

IN WITNESS WHEREOF, I have hereunto set my hand this twenty-ninth day of March, in the year of our Lord nineteen hundred and ninety-one, and of the Independence of the United States of America the two hundred and fifteenth.

George Bush

[FR Doc. 91-7832
Filed 3-29-91; 1:45 pm]
Billing code 3195-01-M

Rules and Regulations

Federal Register
Vol. 56, No. 63
Tuesday, April 2, 1991

DEPARTMENT OF AGRICULTURE

Agriculture Department

7 CFR Parts 1001 and 1002

[DA-91-001]

Milk in the New England and New York-New Jersey Marketing Areas; Order Suspending Certain Provisions of the Orders

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Suspension of rules.

SUMMARY: This action suspends the seasonal production incentive payment provisions of the New England and New York-New Jersey Federal milk orders for 1991. The suspensions are necessary to ameliorate the impending collapse of farm-level milk prices in the two marketing areas by eliminating the deductions from producer prices in the months of March through June that would be made under the orders' seasonal incentive payment plans. The action will increase the cash flow of dairy farmers this spring when some of them will be facing financial difficulties. The suspensions were requested by seven cooperative associations representing producers who provide much of the milk supply for the two markets.

EFFECTIVE DATE: April 2, 1991.

FOR FURTHER INFORMATION CONTACT: Constance M. Brenner, Marketing Specialist, USDA/AMS/Dairy Division, Order Formulation Branch, room 2968, South Building, P.O. Box 96456, Washington, DC 20090-6456, (202) 447-2089.

SUPPLEMENTARY INFORMATION: Prior document in this proceeding:

Notice of Proposed Suspension: Issued February 4, 1991; published February 7, 1991 (56 FR 4955).

The Regulatory Flexibility Act (5 U.S.C. 601-612) requires the Agency to examine the impact of a proposed rule on small entities. Pursuant to 5 U.S.C. 605(b), the Administrator of the Agricultural Marketing Service has certified that this action will not have a significant economic impact on a substantial number of small entities. This action lessens the regulatory impact of the order on dairy farmers and will have no impact on regulated handlers.

This final rule has been reviewed by the Department in accordance with Departmental Regulation 1512-1 and the criteria in Executive Order 12291, and has been determined to be a "non-major" rule.

This order of suspension is issued pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674), and of the orders regulating the handling of milk in the New England and New York-New Jersey marketing areas.

Notice of proposed rulemaking was published in the **Federal Register** on February 7, 1991 (56 FR 4955) concerning a proposed suspension of certain provisions of the orders. Interested persons were afforded opportunity to file written data, views, and arguments thereon. Several comments were received and they are summarized in the statement of consideration.

After consideration of all relevant material, including the proposal in the notice, the comments received, and other available information, it is hereby found and determined that for the month of March 1991 the following provisions of the orders do not tend to effectuate the declared policy of the Act:

1. Paragraph (c) of § 1001.61; and
2. Paragraph (c) of § 1002.71; and

For the months of April through November 1991 the following provisions of the orders do not tend to effectuate the declared policy of the Act:

1. Paragraphs (c) and (d) of § 1001.62; and
2. Paragraphs (d) and (e) of § 1002.61.

Statement of Consideration

The action suspends for 1991 the provisions of the New England and New York-New Jersey orders that require deductions from and additions to producer blend/uniform prices to be made for the purpose of encouraging dairy farmers to level out their production during the year. The provisions provide for the deduction of 20 cents per hundredweight from the blend/uniform price paid to producers to be made for the month of March, 30 cents for April, and 40 cents for May and June. The funds retained from these deductions are then added to the pooled milk values under the two orders in the amounts of 25, 30 and 30 percent of the total deducted for the months of August, September and October, respectively. The remaining 15 percent plus interest earned on the aggregate funds is added for the month of November. By artificially depressing producer income in the spring and enhancing it above otherwise prevailing levels in the fall, the provisions provide an incentive to producers to level out the seasonality of their milk production to more closely reflect fluid milk demand patterns.

The suspensions were requested by seven major cooperative associations representing dairy farmers shipping to handlers regulated by the Federal milk marketing orders for the New England and New York-New Jersey marketing areas. The cooperative associations proposing the suspensions are Agri-Mark, Inc., Atlantic Dairy Cooperative, Inc., Cabot Farmers Cooperative Creamery Company, Dairylea Cooperative, Inc., Eastern Milk Producers Cooperative Association, Inc., St. Albans Cooperative, Inc., and Upstate Milk Producers Cooperative. In total, the cooperatives represent 80 percent of the producers whose milk is pooled under the New England order, and 32 pecent of the producers shipping to handlers regulated under the New York-New Jersey order. Proponents state that 90 percent of the producers supplying these two markets support the action.

Proponents contend the suspensions are justified because of the substantial decline in the Minnesota-Wisconsin price, the price series on which Federal order prices are based. Seasonal increases in milk supplies this spring are expected to further depress the Minnesota-Wisconsin price to or below the support level of $9.90 per hundredweight. Such an unprecedented collapse in milk prices can be expected to place many family dairy farm operations in a serious loss situation, force many out of business, and severely depress the economies of rural communities throughout the region. The additional reduction of pay prices to producers this spring due to operation of the seasonal incentive plan, beyond that resulting from anticipated supply-

demand conditions and occurring at a time when farm cash requirements are at their seasonal peak, can be expected to further accentuate the drastic financial crunch dairy farmers are facing.

Eight comments were filed by interested parties in response to the invitation in the notice proposing this action. The action was supported by seven of the commentors, including two large Northeast dairy organizations, the Regional Cooperative Marketing Association and the Milk Producers Voluntary Agricultural Association, that represent more than 20,000 dairy farmers who produce milk for the region. This information appears to support proponents' statement that this action is favored by 90 percent of the producers supplying these two markets. Commentors favoring the action generally agreed with the position taken by proponents that some dairy farmers will need the money that would be withheld from their payments during March–June 1991 under the seasonal plan to meet their farming expenses.

Allied Federated Cooperatives, a federation of 26 independent cooperatives headquartered in New York which represents 1500 dairy farmers, objected to the proposal. A spokesman for the producer group stated that since its producers had made a concerted effort over the years to tailor their milk production to the needs of the marketplace they should not be asked to give up the benefits they have earned for even one year.

It is evident from the comments received that there is widespread support for this action among producers supplying these two markets. Commentors point out that the financial position of some dairy farmers is such that they cannot afford to take lower returns in the spring in exchange for higher prices in the fall.

Milk prices have declined markedly in the last several months, and it is expected that prices will remain significantly below year-earlier levels throughout the months in which the New England and New York-New Jersey milk orders would require that additional amounts be deducted from producer returns for the operation of the orders' seasonal incentive plans. It is also expected that normal seasonal price variations will result in increased prices in the fall months, when the seasonal payment plans would operate to enhance prices to producers. Therefore, producers who have made an effort to shift production from spring to fall should benefit from higher prices in the coming fall months.

Therefore, the seasonal incentive plans of the two markets are hereby suspended for 1991. The failure of the seasonal incentive payment plans under the two orders to operate for one year should not cause dairy farmers who have made a long-term effort to shift production from spring to fall to abandon such a production pattern.

It is hereby found and determined that thirty days' notice of the effective date hereof is impractical, unnecessary and contrary to the public interest in that:

(a) The suspension is necessary to reflect current marketing conditions and to assure orderly marketing conditions in the marketing areas in that the action lessens the regulatory impact of the orders on dairy farmers and will have no impact on regulated handlers;

(b) This suspension does not require of persons affected substantial or extensive preparation prior to the effective date; and

(c) Notice of proposed rulemaking was given interested parties and they were afforded opportunity to file written data, views or arguments concerning this suspension. One comment was filed in opposition to this action and the issues raised therein are dealt with in the statement of consideration.

Therefore, good cause exists for making this order effective upon publication in the **Federal Register.**

List of Subjects in 7 CFR Parts 1001 and 1002

Milk marketing orders.

It is Therefore ordered, That the following provisions in § 1001.61 of the New England order and § 1002.71 of the New York-New Jersey order are hereby suspended for the month of March 1991; and the following provisions in § 1001.62 of the New England order and § 1002.61 of the New York-New Jersey order are hereby suspended for the months of April through November 1991.

PARTS 1001 AND 1002—MILK IN THE NEW ENGLAND AND NEW YORK-NEW JERSEY MARKETING AREAS

1. The authority citation for 7 CFR parts 1001 and 1002 continues to read as follows:

Authority: Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674.

For the month of March 1991

2. In § 1001.61, paragraph (c) is suspended.

3. In § 1002.71, paragraph (c) is suspended.

For the months of April through November 1991

4. In § 1001.62, paragraphs (c) and (d) are suspended.

5. In § 1002.61, paragraphs (d) and (e) are suspended.

Signed at Washington, DC, on: March 26, 1991.

Jo Ann R. Smith,

Assistant Secretary, Marketing and Inspection Services.

[FR Doc. 91–7628 Filed 4–1–91; 8:45 am]

BILLING CODE 3410–02–M

DEPARTMENT OF THE TREASURY

United States Customs Service

19 CFR Part 4

[T.D. 91–28]

Coastwise Transportation of Certain Articles by Vessels of the State of Bahrain

AGENCY: U.S. Customs Service, Department of the Treasury.

ACTION: Final rule.

SUMMARY: This document amends the Customs Regulations to include the State of Bahrain in the lists of nations which permit vessels of the United States to transport certain articles specified in section 27, Merchant Marine Act of 1920, as amended, between their ports. This amendment will provide reciprocal treatment for vessels of Bahrain registry. Customs has been furnished with satisfactory evidence that the State of Bahrain places no restrictions on the transportation of certain specified articles by vessels of the U.S. between ports in that country.

DATES: The reciprocal privileges for vessels registered in the State of Bahrain became effective on November 27, 1990. This amendment is effective April 2, 1991.

FOR FURTHER INFORMATION CONTACT: Jeffrey Whalen, Carrier Rulings Branch (202–566–5706).

SUPPLEMENTARY INFORMATION:

Background

Section 27 of the Merchant Marine Act of 1920, as amended (46 U.S.C. app. 883), referred to as the Jones Act, provides that no merchandise shall be transported between points in the United States embraced within the

coastwise laws, either directly or via a foreign port, or for any part of the transportation, in any vessel other than a vessel built in and documented under the laws of the United States and owned by citizens of the United States. The sixth proviso of the Act, as amended, exempts from the provisions of section 883, upon a finding by the Secretary of the Treasury pursuant to information obtained and furnished by the Secretary of State, that where a foreign nation does not restrict the transportation of certain articles between its ports by vessels of the United States, reciprocal privileges will be accorded to vessels of that nation, and the prohibition against the transportation of those articles between points in the United States will not apply to its vessels.

In accordance with the Act, the Customs Service has listed in § 4.93(b)(1) of the Customs Regulations (19 CFR 4.93(b)(1)) those nations found to extend reciprocal privileges to vessels of the United States for the transportation of empty cargo vans, empty lift vans, and empty shipping tanks. Those nations found to grant reciprocal privileges to vessels of the United States for the transportation of equipment for use with cargo vans, lift vans, and shipping tanks; empty barges specifically designed for carriage aboard a vessel; empty instruments of international traffic; and certain stevedoring equipment and material are listed in § 4.93(b)(2) of the Customs Regulations (19 CFR 4.93(b)(2)).

The Department of State advised the Chief, Carriers Rulings Branch, Customs Service, on November 27, 1990, that the State of Bahrain places no restrictions on the transportation of articles listed in the Act by vessels of the United States between ports in the State of Bahrain. The authority to amend this section of the Customs Regulations has been delegated to the Chief, Regulations and Disclosure Law Branch.

Finding

Pursuant to the information received from the Department of State, it has been found that the State of Bahrain places no restrictions on the transportation of the articles specified in section 27 of the Merchant Marine Act of 1920, as amended (46 U.S.C. app. 883), by vessels of the United States. Therefore, the appropriate reciprocal privileges are being accorded to vessels of Bahrain registry as of November 27, 1990.

Inapplicability of Notice and Delayed Effective Date Provisions

Because this amendment merely implements a statutory requirement and involves a matter in which the public is not particularly interested, pursuant to 5 U.S.C. (b)(3)(B), notice and public procedure thereon are unnecessary. Similarly, good cause exists for dispensing with a delayed effective date under 5 U.S.C. (d)(1).

Executive Order 12291 and Regulatory Flexibility Act

In that this amendment does not meet the criteria for a "major rule" within the meaning of Executive Order 12291, Customs has not prepared a regulatory impact analysis. Inasmuch as a notice of proposed rulemaking is not required for this final regulation, the provisions of the Regulatory Flexibility Act (5 U.S.C. 601, *et seq.*) do not apply.

Drafting Information

The principal author of this document was Michael Smith, Regulations and Disclosure Law Branch, Office of Regulations and Rulings, U.S. Customs Service. However, personnel from other offices participated in its development.

List of Subjects in 19 CFR Part 4

Customs duties and inspection, Cargo vessels, Coastwise trade, Maritime carriers, Vessels.

Amendment to the Customs Regulations

To reflect the reciprocal privileges granted to vessels registered in the State of Bahrain, part 4, Customs Regulations (19 CFR part 4), is amended as follows:

PART 4—VESSELS IN FOREIGN AND DOMESTIC TRADE

1. The authority for part 4 continues to read in part as follows:

Authority: 5 U.S.C. 301; 19 U.S.C. 66, 1624; 46 U.S.C. app. 3; * * * § 4.93 also issued under 19 U.S.C. 1322(a), 46 U.S.C. app. 883; * * *

§ 4.93 [Amended]

2. Section 4.93(b) (1) and (2), are amended by adding "Bahrain" in appropriate alphabetical order to the lists of countries under those paragraphs.

Dated: March 26, 1991.

Kathryn C. Peterson,

Chief, Regulations and Disclosure Law Branch.

[FR Doc. 91-7620 Filed 4-1-91; 8:45 am]

BILLING CODE 4820-02-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 520

Oral Dosage Form New Animal Drugs Not Subject to Certification; Morantel Tartrate Sustained-Release Trilaminate Cylinder/Sheet

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect approval of a supplemental new animal drug application (NADA) filed by Pfizer, Inc. The supplement provides for the use of a plastic trilaminate cylinder/sheet providing for the sustained release of morantel tartrate to control the adult stage of certain gastrointestinal nematode infections in weaned calves and yearling cattle.

EFFECTIVE DATE: April 2, 1991.

FOR FURTHER INFORMATION CONTACT: Dianne T. McRae, Center for Veterinary Medicine (HFV-135), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-4913.

SUPPLEMENTARY INFORMATION: Pfizer, Inc., 235 East 42d St., New York, NY 10017, is the sponsor of NADA 134-779 which is currently approved for use of Paratect® Cartridge, a sustained-release product which contains morantel tartrate in a stainless steel cylinder. The firm has submitted a supplement requesting approval of the Paratect Flex® Diffuser, which utilizes an alternative cylinder consisting of trilaminated, perforated plastic. Both products are used to control certain gastrointestinal nematodes in weaned calves and yearling cattle.

The supplement is approved as of March 25, 1991, and the regulations are amended to reflect the approval by adding new 21 CFR 520.1450c. The basis for approval is discussed in the freedom of information summary.

Under section 512(c)(2)(F)(ii) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360b(c)(2)(F)(ii)), this approval qualifies for 3 years of marketing exclusivity beginning March 25, 1991, because new clinical or field studies were required for the approval.

In accordance with the freedom of information provisions of part 20 (21 CFR part 20) and § 514.11(e)(2)(ii) (21 CFR 514.11(e)(2)(ii)), a summary of safety and effectiveness data and information submitted to support approval of this application may be seen

in the Dockets Management Branch (HFA-305), Food and Drug Administration, Room 4-62, 5600 Fishers Lane, Rockville, MD 20857, from 9 a.m. to 4 p.m., Monday through Friday.

The agency has determined under 21 CFR 25.24(d)(1)(iii) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

List of Subjects in 21 CFR Part 520

Animal drugs.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Center for Veterinary Medicine, 21 CFR part 520 is amended as follows:

PART 520—ORAL DOSAGE FORM NEW ANIMAL DRUGS NOT SUBJECT TO CERTIFICATION

1. The authority citation for 21 CFR part 520 continues to read as follows:

Authority: Sec. 512 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360).

2. New § 520.1450c is added to read as follows:

§ 520.1450c Morantel tartrate sustained-release trilaminate cylinder/sheet.

(a) *Specifications.* The drug product consists of a trilaminated, perforated, plastic sheet formed into a cylinder having plastic plugs in its ends. The core lamina contains 19.8 grams of morantel tartrate equivalent to 11.8 grams of morantel base.

(b) *Sponsor.* See 000069 in § 510.600(c) of this chapter.

(c) *Related tolerances.* See § 556.425 of this chapter.

(d) *Conditions of use*—(1) *Amount.* Grazing cattle: Administer 1 cartridge to each animal at the start of the grazing season.

(2) *Indications for use.* For control of the adult stage of the following gastrointestinal nematode infections in weaned calves and yearling cattle weighing a minimum of 200 pounds: *Ostertagia* spp., *Trichostrongylus axei, Cooperia* spp., and *Oesophagostomum radiatum.*

(3) *Limitations.* Administer orally with the dosing gun to all cattle that will be grazing the same pasture. Effectiveness of the drug product is dependent upon continuous control of the gastrointestinal parasites for approximately 90 days following administration. Therefore, treated cattle should not be moved to pastures grazed in the same grazing season/calendar year by untreated cattle. Do not administer to cattle within 102 days of slaughter. Consult your veterinarian before administering to severely debilitated animals and for assistance in the diagnosis, treatment, and control of parasitism.

Dated: March 19, 1991.

Robert C. Livingston,

Director, Office of New Animal Drug Evaluation, Center for Veterinary Medicine.

[FR Doc. 91-7731 Filed 4-1-91; 8:45 am]

BILLING CODE 4160-01-M

OFFICE OF NAVAJO AND HOPI INDIAN RELOCATION

25 CFR Part 700

New Lands Grazing Regulations

AGENCY: Office of Navajo and Hopi Indian Relocation.

ACTION: Final rule.

SUMMARY: These rules amend grazing regulations for the lands which have been acquired pursuant to Public Law 96-305 for the use of Navajo families required to relocate under Public Law 93-531.

EFFECTIVE DATE: Final rule effective April 2, 1991.

FOR FURTHER INFORMATION CONTACT: Norman Lowe (Range Supervisor) or Paul Tessler (Attorney), Office of Navajo and Hopi Indian Relocation, at (602) 779-2721.

SUPPLEMENTARY INFORMATION: On September 14, 1990 (55 FR 37868), the Office of Navajo and Hopi Indian Relocation (ONHIR) published an interim final rule amending grazing regulations on the Navajo New Lands. The ONHIR received written comments from The Navajo Tribal Justice Department and one individual. Two public informational meetings and one formal hearing were conducted at the ONHIR New Lands Office. Twenty-four oral comments were received from the formal hearing. The Commissioner has considered all comments received within the allowed comment period and responds to these comments as stated below:

Section 770.705 Objectives

Written comment was received recommending the objectives of the regulation be changed by deleting the word "physically" as concerns residence on the Hopi Partitioned Lands (HPL) and also to add "as of December 22, 1974" to define Navajo Indians qualified to move to the New Lands. This recommendation is not accepted as it does not reflect the Office's policy goals as stated by the rule to move current physical residents of the HPL.

Section 700.709 Grazing Privileges

Written comment was received requesting persons who shared a permit on the HPL have the same consideration for obtaining permits on the New Lands as persons who had permits issued in their own names. This recommendation has not been adopted as the limited livestock carrying capacity of the New Lands permits only the recognition of primary permit holders on the HPL and will not permit recognition of those who have informally shared permits with no official documentation of livestock carrying capacity adjudicated in their name. Language has been added to this section to limit the time period during which individuals on the published list will receive a priority commitment for the issuance of a permit. Individuals on the list must file an application for such permit with the Office not later than June 1, 1992, after which they will lose their priority status.

Each individual on the list will be contacted by the Office before June 1, 1992, and given the opportunity to apply for and receive a grazing permit. Each individual who applies for a grazing permit must agree to move to the New Lands and must also take all reasonable steps to plan for and complete their relocation in a timely manner as requested by the Office. If, after applying for a permit, individuals refuse or fail to make timely arrangements to relocate, the priority commitment for a grazing permit may be withdrawn by the Office.

Language has also been added which reserves to the Commissioner discretionary authority to grant grazing permits after June 1, 1992, to individuals who are not on the list if it is determined that to do so would facilitate relocation.

Finally, language has been added to this section to provide that initial determinations on eligibility for grazing permits will be made by the Range Supervisor of the Office.

Section 700.715 Assignment, Modification, and Cancellation of Grazing Permits

Written comment was received questioning the definition and appropriateness of the term "sub-permitting." Upon review of Bureau of Indian Affairs' experience with sub-permitting, this word has been removed from the regulation. The 80 Sheep Units Year Long (SUYL) base permits issued under these regulations are an indivisible entity and are of a size to

permit responsible livestock management by permit holders. Sub-permitting is unacceptable as it provides a method for official division of permits and invites the unacceptable practice of absentee grazing.

Section 700.717 Stocking Rate

Section 700.719 Establishment of Grazing Fees

Section 700.729 Amendments

Written comment was received suggesting that wording be added to these sections requiring the Commissioner consult with the Tribe before stocking rates are adjusted, grazing fees are established, or amendments are made to the regulations. It is the practice of the Commissioner to consult with the Tribe in such matters. Wording has been added to state the Commissioner may consult with the Tribe before making such changes which affect the livelihood of permittees through changes in stocking rates or establishment of grazing fees.

Section 700.723 Control of Livestock Plan

Oral comment was received that Range Management Plans should include a recording of brands so that brands of leased livestock or livestock of family members other than the permittee can be grazed under the responsibility of the permittee. A new subsection (d) has been added so all brands of livestock authorized to graze on the range unit are included in the Range Management Plan. This provides culturally needed flexibility while assuring all livestock are correctly accounted for.

Section 700.725 Livestock Trespass Disease and Parasites

Written comment was received that this section should state clearly that livestock health is the responsibility of the permittees. Wording has been added to specify livestock must be treated and restrained by the responsible permittee.

Section 700.725 Livestock Trespass

A new subsection (e) is added to reflect the addition of subsection (d) in section 700.721. Grazing of livestock with brands not registered on the Range Management Plan is a prohibited act and needs to be included in this section. Written comment was received stating trespass penalties should reflect the nature of the damage inflicted on the land; hence, small herding animals such as sheep and goats should be penalized at 25¢ per day and large animals at $1 per day. This change has been made in the regulations as the suggested rates better reflect the costs related to impoundment and the relative damage to the resource. Written comment was also received that penalties for the replacement value of forage be removed. This change is made as the trespass penalty is a sufficient deterrent and it would be difficult to establish the reasonableness of the value of forage consumed on tribal trust land.

Section 700.727 Impoundment and Disposal of Unauthorized Livestock

Subsection (a). Written comment was received suggesting the 10 day period for resolution of trespass be increased to 15 days and that written notice always be personally delivered to permittees. These proposed changes were not adopted. The 10 day period is adequate for permittees to resolve trespass. The Office has an established procedure of providing a one week notification period for permittee meetings. In practice, the current 10 day notification plus five day notification of intent to impound means livestock could remain in trespass for three weeks before the Office can remove them. Adding another five days is unreasonable in light of the resource damage produced by livestock trespass on range units, all of which have rotation grazing management plans in practice. Due to the close proximity of New Lands range units to the Office's range administration office, notice of trespass is usually hand-delivered to permittees on the range units. Hand delivery of all notices is not reasonable because some permittees leave the New Lands area for extended periods of time.

Subsection (b). Written comment was received suggesting that notice of intent to impound livestock of unknown ownership not only be posted at chapter houses and trading posts, but also be announced in English and Navajo on a local radio station. This requested change has not been adopted as it does not reflect standard procedure of any other grazing management agency. The relatively small area of the New Lands does not justify regional radio broadcasts to identify owners of stray livestock. Regional broadcasting of intent to impound trespass livestock would excite unnecessary concern from persons unaffected by the possible impoundment.

Subsection (c). Written comment was received suggesting that the period of time within which the Commissioner can quickly resolve a repeat of the same trespass be shortened from one year to six months. This request has not been adopted as persons cited for trespass can easily remember conditions of the trespass for a year, and it is important to continuity of Range Management Plans that the Office not have to wait three weeks before resolving repeated trespass within the year.

Subsection (d). Written comment was received suggesting that livestock which are erroneously impounded should be returned to the rightful owner at his or her residence by the Office. This suggested change has not been adopted as livestock most always will need to be returned to the range unit pasture where grazing is authorized under the Range Management Plan as has been mutually agreed on by permittees and the Office. The Office would not return the livestock to any area other than that authorized to avoid extra labor for the permittee or the possibility of trespass.

Written comment was received suggesting the inclusion of an appeals procedure in the regulation which would follow the Office's eligibility appeals procedure. A simplified appeals section has been incorporated into the regulations.

PREAMBLE: The primary author of this document is Norman Lowe, Range Supervisor, Office of Navajo and Hopi Indian Relocation, Flagstaff, Arizona.

It has been determined that this final rule is not a major rule as that term is defined in Executive Order 12291, because it will have a limited economic impact on a small number of people and does not require a regulatory analysis. It has been determined that the final rule will not have a significant economic impact on a substantial number of small entities with the meaning of Regulatory Flexibility Act, 5 U.S.C., 601 *et seq.*

This rule does not constitute a major Federal action significantly affecting the quality of the human environment under the National Environmental Policy Act of 1969.

This rule does not contain information collection requirements which require the approval of the Office of Management and Budget under 44 U.S.C. 3501 *et seq.*

List of Subjects in 25 CFR Part 700

Administrative practice and procedure. Conflict of interest. Freedom of Information, Grant program—Indians, Indian-claims, Privacy, Real property acquisition, Relocation Assistance, and New Lands Administration.

Accordingly, the Office is amending Chapter IV as follows:

Chapter IV—The Office of Navajo and Hopi Indian Relocation.

1. The heading for Chapter IV is revised as set forth above.

2. The authority citation for 25 CFR part 700 is revised to read as follows:

Authority: Pub. L. 99–590; Pub. L. 93–531, 88 Stat. 1712 as amended by Pub. L. 96–305, 94 Stat. 929, Pub. L. 100–666, 102 Stat. 3929 (25 U.S.C. 640d).

3. Subpart Q of part 700 is revised to read as follows:

Subpart Q—New Lands Grazing

Subpart Q—New Lands Grazing

§ 700.701 Definitions.

(a) *Act* means Public Law 93–531 (88 Sat. 1712, 25 U.S.C. 640 et. seq.) as amended by Public Law 96–305 and Public Law 100–666.

(b) *New Lands* means the land acquired for the use of relocatees under the authority of Public Law 96–305, 25 U.S.C. 640d–10. These lands include the 215,000 acres of lands acquired by the Navajo and Hopi Indian Relocation Commission and added to the Navajo Reservation and 150,000 acres of private lands previously owned by the Navajo Nation in fee and taken in trust by the United States pursuant to 25 U.S.C. 640d–10.

(c) *Commissioner* means the Commissioner of The Office of Navajo and Hopi Indian Relocation in Flagstaff, Arizona. Reference to approval or other action by the Commissioner will also include approval or other action by another Federal officer under delegated authority from the Commissioner.

(d) *Tribe* means the Navajo Nation.

(e) *Range unit* means a tract of range land designated as a management unit for administration of grazing.

(f) *Range Management Plan* means a land use plan for a specific range unit that will provide for a sustained forage production consistent with soil, watershed, wildlife, and other values.

(g) *Stocking Rate* means the authorized stocking rate by range unit as determined by the Commissioner. The stocking rate shall be based on forage production, range utilization, land management applications being applied, and range improvements in place to achieve uniformity of grazing under sustained yield management principles.

(h) *Grazing Permit* means a revocable privilege granted in writing limited to entering on and utilizing forage by domestic livestock on a specified tract of land. The term, as used herein, shall include written authorization issued to enable the crossing or trailing of domestic livestock across specified tracts or range.

(i) *Animal Unit* (AU) means one adult cow with unweaned calf by her side or equivalent thereof based on comparative forage consumption. Accepted conversion factors are: Sheep and Goats—one ewe, doe, buck, or ram equals 0.25 AU. Horses and Mules—one horse, mule, donkey or burro equals 1.25 AU.

(j) *Sheep Unit* means one ewe with lamb at side or a doe goat with kid.

(k) *SUYL* means one sheep unit grazed yearlong.

(l) *HPL* means the area partitioned to the Hopi Tribe pursuant to PL 93–531 known as the Hopi Partitioned Land.

§ 700.703 Authority.

It is within the authority of the Commissioner on Navajo and Hopi Indian Relocation to administer the New Lands added to the Navajo Reservation pursuant to 25 U.S.C. 6–10(d)–10.

§ 700.705 Objectives.

It is the purpose of the regulations in this part to aid the Navajo Indians in achievement of the following objectives:

(a) The preservation of the forage, the land, and the water resources on the New Lands.

(b) The resettlement of Navajo Indians physically residing on the HPL to the New Lands.

§ 700.707 Regulations; scope.

The grazing regulations in this part apply to the New Lands within the boundaries of the Navajo Reservation held in trust by the United States for the Navajo Tribe which lands were added to the Navajo Reservation pursuant to 25 U.S.C. 640(d)–10; 25 CFR parts 166 and 167 are not applicable to the New Lands.

§ 700.709 Grazing privileges.

(a) A list of permittees eligible to receive grazing permits is kept at the Office of Navajo and Hopi Indian Relocation in Flagstaff, Arizona. This list is composed of individuals eligible for New Lands grazing permits who:

(1) have a current HPL grazing permit, or have had an HPL permit issued since 1980, or are current HPL residents and can show documentation of a past grazing permit issued in their name for grazing on an area now on the HPL, and

(2) who have not received relocation benefits under Public Law 93–531, and who relocate from the HPL on to a New Lands range unit. Individuals on this list will receive a commitment that a permit will be issued to them.

(b) If such persons cannot relocate immediately because their chosen relocation site is not ready for occupancy, the Office will issue a commitment to them that a grazing permit will be granted upon their relocation.

(c) If such persons are notified by the Office that their relocation site is ready for occupancy and they fail or refuse to make timely arrangements to relocate when requested by the Office to do so, the commitment may be withdrawn.

(d) Persons on this list must file application for a New Lands grazing permit by June 1, 1992, or lose their priority status for receiving permits. After this date, the Commissioner, at his sole discretion, may issue permits to individuals if it is determined that to do so will facilitate relocation.

(e) Initial determinations on eligibility for grazing permits will be made by the Range Supervisor.

§ 700.711 Grazing permits.

(a) All livestock grazed on the New Lands must be covered by a grazing permit authorized and issued by the Commissioner on Navajo and Hopi Indian Relocation.

(b) Permit holders must:

(1) Be enrolled Navajo Tribal members,

(2) Be over 18 years of age,

(3) Maintain a permanent residency on the New Lands Range Unit of permit issue, and

(4) Own livestock which graze on the range unit of permit issue.

(c) Permits will be issued for a base of 80 SUYL (20 AU) and may not be divided or transferred for less than 80 SUYL.

(d)(1) Temporary seasonal grazing permits for periods not to exceed one year may be issued to permittees:

(i) to use extra forage made available under rotation grazing management as regulated by a range unit management plan,

(ii) to use forage created by unusually favorable climatic conditions,

(iii) to allow use of range while term permits are held in suspension under § 700.715(d).

(2) These temporary permits may be reissued prior to termination provided:

(i) the permittee is managing grazing in compliance with grazing regulations,

(ii) livestock grazing is in compliance with the cooperative range unit range management plan, and

(iii) forage is available on the range to sustain the livestock authorized under the temporary permit.

§ 700.713 Tenure of grazing permits.

(a) All active regular grazing permits shall be for five years and shall be automatically reissued for another five-year period provided the permittee is not in violation of § 700.711 or 700.715 or 700.719 or 700.723 or 700.725 of the regulations. Permits will initially be issued with an ending date of October 31 of the fifth year following the date of initial issuance.

(b) Amendments to these regulations extending or limiting the tenure of grazing permits are applicable and become a condition of all previously granted permits.

§ 700.715 Assignment, modification, and cancellation of grazing permits.

(a) Grazing permits may be assigned or transferred with the written consent of the contracting parties. The Commissioner will issue a new permit provided the transferee meets qualifications under § 700.711(b).

(b) Temporary permits issued under § 700.711(d) are directly tied to the term permit and may be transferred with the term permit if the transferee signs the range unit management plan which provides the management for continuation of the temporary grazing permit. Temporary permits will not be transferred and shall be null and void if the term permit transferee does not sign the management plan agreeing to practice conservation management.

(c) Grazing permits may be assigned for transfer through a notarized document to an heir who meets the qualifications for a grazing permit under § 700.711.

(d) Grazing permits must be transferred in whole to a single transferee—the transferor relinquishing all grazing privileges at the time of transfer.

(e) The Commissioner may revoke or withdraw all or any part of a grazing permit by cancellation or modification on a 30 day written notice for violation of the permit or of the management plan, non-payment of grazing fees, violation of these regulations, or because of the termination of the trust status of the permitted land.

§ 700.717 Stocking rate.

The Commissioner will determine livestock carrying capacity for each range unit and set the stocking rate and adjust that rate as conditions warrant. The Commissioner may consult with the Tribe when making adjustments to the stocking rate.

§ 700.719 Establishment of grazing fees.

The Commissioner may establish a minimum acceptable grazing fee per SUYL. The Commissioner may consult with the Tribe prior to establishing fees.

§ 700.721 Range management plans.

The Commissioner (or his designee) and the permittees of each range unit will meet as a group and develop a Range Management Plan for the common use of the range unit. The plan will include but will not be limited to the following:

(a) Goals for improving vegetative productivity.

(b) Incentives for carrying out the goals.

(c) Stocking rate.

(d) Record of brands of livestock authorized to graze on the range unit.

(e) Grazing plan and schedule.

(f) Range monitoring schedule.

(g) Wildlife management.

(h) Needs assessment for range and livestock improvements.

(i) Scheduling for operation and maintenance of existing range improvements.

§ 700.722 Grazing Associations.

(a) The Commissioner may recognize, cooperate with, and assist range unit livestock associations in the management of livestock and range resources.

(b) These associations will provide the means for the members:

(1) To jointly manage their permitted livestock and the range resources,

(2) To meet jointly with the ONHIR range staff to discuss and formulate range management plans,

(3) To express their wishes through designated officers or committees,

(4) To share costs for handling livestock, construction of range improvements, fence and livestock facilities maintenance, and other land or livestock improvement projects agreed on, and

(5) To formulate association special rules needed to assure cooperation and resource management.

(c) The requirements for receiving recognition by the Commissioner are:

(1) The members of the association must be grazing permittees and constitute a majority of the grazing permittees on the range unit involved.

(2) The officers of the association must be elected by a majority of the association members or of a quorum as specified by the association's constitution and bylaws.

(3) The officers other than secretary and treasurer must be grazing permittees on the range unit involved.

(4) The association's activities must be governed by a constitution and bylaws acceptable to the Commissioner and signed by him.

(5) The association's constitution and bylaws must recognize conservation management goals and the need to follow a range unit management plan.

(d) The Commissioner may withdraw his recognition of the association whenever:

(1) The majority of the grazing permittees request that the association be dissolved.

(2) The association becomes inactive and does not meet in annual or special meetings during a consecutive two-year period.

(e) A recognized association may hold a grazing permit to benefit its members according to the rules of the association constitution and bylaws. All of the association's livestock will be run under an association brand properly registered with the Navajo Tribe and the ONHIR.

(f) Associations may acquire permits from consenting permittees on the range unit in accordance with § 700.711 and may assign or transfer these permits in accordance with § 700.715.

§ 700.723 Control of livestock disease and parasites.

Whenever livestock within the New Lands become infected with contagious or infectious disease or parasites or have been exposed thereto, such livestock must be treated and the movement thereof restricted by the responsible permittee in accordance with applicable laws.

§ 700.725 Livestock trespass.

The following acts are prohibited:

(a) The grazing of livestock upon, or driving of livestock across, any of the New Lands without a current approved grazing or crossing permit.

(b) The grazing of livestock upon an area specifically rested from the grazing of livestock according to the range unit Range Management Plan.

(c) The grazing of livestock upon any land withdrawn from use for grazing to protect it from damage after receipt of appropriate notice from the Commissioner.

(d) The grazing of livestock in excess of those numbers authorized on the livestock grazing permit approved by the Commissioner.

(e) Grazing of livestock whose brand is not recorded in the range unit Range Management Plan.

The owner of any livestock grazing in trespass on the New Lands is liable to a civil penalty of $1 per head per day for each cow, bull, horse, mule or donkey and 25¢ per head per day for each sheep or goat in trespass and a reasonable value for damages to property injured or destroyed. The Commissioner may take appropriate action to collect all such penalties and damages and seek injunctive relief when appropriate. All payments for such penalties and damages shall be paid to the Commissioner for use as a range improvement fund.

§ 700.727 Impoundment and disposal of unauthorized livestock.

Unauthorized livestock within any range unit of the New Lands which are not removed therefrom within the periods prescribed by the regulation will be impounded and disposed of by the Commissioner as provided herein.

(a) When the Commissioner determines that unauthorized livestock use is occurring, and has definite knowledge of the kind of unauthorized livestock and knows the name and address of the owners, the owner shall be given written notice and a 10 day period shall be allowed for the permittee to solve the unauthorized use without penalty. If after this 10 day period the unauthorized use is not resolved, such livestock may be impounded at any time after five days after written Notice of Intent to Impound Unauthorized Livestock is mailed by certified mail or personally delivered to such owners or their agent.

(b) When the Commissioner determines that unauthorized livestock use is occurring, but does not have complete knowledge of the number and class of livestock, or if the name and address of the owner thereof are unknown, such livestock may be impounded at anytime after 15 days after the date a General Notice of Intent to Impound Unauthorized Livestock is first published in a local newspaper, posted at the nearest chapter house, and in one or more local trading posts.

(c) Unauthorized livestock on the New Lands which are owned by persons given notice under paragraph (a) of this section and any unauthorized livestock in areas for which notice has been posted and published under paragraph (b) of this section, will be impounded without further notice anytime within the 12-month period immediately following the effective date of the notice.

(d) Following the impoundment of unauthorized livestock, a notice of sale of impounded livestock or unauthorized livestock will be published in a local newspaper, posted at the nearest chapter house, and in one or more local trading posts. The notice will describe the livestock and specify the date, time, and place of sale. The date set shall be at least five days after the publication and posting of such notice.

(e) The owners or their agent may redeem the livestock anytime before the time set for the sale by submitting proof of ownership and paying for all expenses incurred in gathering, impounding, and feeding or pasturing the livestock and any trespass fees and/or damages caused by the animals.

(f) Livestock erroneously impounded shall be returned to the rightful owner, and all expenses accruing thereto shall be waived.

(g) If the livestock are not redeemed before the time fixed for their sale, they shall be sold at public sale to the highest bidder. When livestock are sold pursuant to this regulation, the Commissioner shall furnish the buyer a bill of sale or other written instrument evidencing the sale.

(h) The proceeds of any sale of impounded livestock shall be applied as follows:

(1) To the payment of all expenses incurred by the United States in gathering, impounding, and feeding or pasturing the livestock.

(2) Trespass penalties assessed pursuant to § 700.725 shall be paid to a separate account to be administered by the Commissioner for use as a range improvement fund for the New Lands.

(3) Any remaining amount shall be paid over to the owner of said livestock upon his submitting proof of ownership. Any proceeds remaining after payment of the first and second items noted above, not claimed within one year from the date of sale, will be credited to the United States.

§ 700.729 Amendments.

These regulations may be amended or superseded as needed.

§ 700.731 Appeals.

Persons who have filed a claim for a grazing permit and whose claim has been denied by the Range Supervisor may appeal to the Commissioner. Appeals must be made in writing and must be received by the Office not more than 30 days after the date the claim was denied. The appeal shall state with specificity why the decision being appealed is in error and shall incorporate all supporting documents. The Commissioner will issue a decision affirming or reversing the decision of the Range Supervisor within 60 days of receipt of the appeal. Such decision will constitute final action by the Office and will be communicated to the appellant by certified mail.

Dated: March 22, 1991.

Carl J. Kunasek,

Commissioner on Navajo and Hopi Indian Relocation.

[FR Doc. 91-7393 Filed 4-1-91; 8:45 am]

BILLING CODE 7560-01-M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 31

[T.D. 8341]

RIN 1545-A086

Deposits of Employment Taxes

AGENCY: Internal Revenue Service, Treasury.

ACTION: Final regulations.

SUMMARY: This document contains final regulations relating to the deposit of Federal employment taxes (including railroad retirement taxes). These final regulations concern the manner in which an employer computes its deposit liability at the close of a specified deposit period. The regulations also reflect the addition of section 6302(g) to the Internal Revenue Code by the Omnibus Budget Reconciliation Act of 1989, Public Law No. 101-239, 103 Stat. 2106, accelerating the deposit due date of employment taxes of $100,000 or more, and its amendment by the Omnibus Budget Reconciliation Act of 1990, Public Law No. 101-508, 104 Stat. 1388. Guidance concerning the acceleration provisions was previously issued in Notice 90-37, 1990-1 C.B. 343, dated May 21, 1990.

EFFECTIVE DATES: This document is effective with respect to deposit periods beginning after March 31, 1991.

FOR FURTHER INFORMATION CONTACT: Vincent G. Surabian, telephone 202-566-5985 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

On Friday, January 4, 1991, the **Federal Register** published (56 FR 395) proposed amendments to the Employment Tax Regulations (26 CFR part 31) under section 6302 of the Internal Revenue Code. Written comments responding to the notice were received and a public hearing was held on February 26, 1991.

Explanation of Provisions

Currently, the determination of whether there is an obligation to deposit and the amount to be deposited is made with reference to the aggregate amount of undeposited taxes on hand at the close of a deposit period. Under these regulations, a determination of whether an employer has a deposit obligation and the amount thereof would instead be made with reference to the aggregate amount of taxes accumulated with respect to wages paid during a specified deposit period. This change is intended to simplify and clarify the application of the penalty provisions under section 6656 of the Internal Revenue Code, as amended by the Omnibus Budget Reconciliation Act of 1989. It is also intended to prevent employers from making small pre-deposits during a deposit in order to postpone an otherwise larger deposit obligation that would arise at the close of the deposit period. This practice was permitted under Rev. Rul. 76–561, 1976–2 C.B. 395, which was issued based on language in the regulations in effect prior to these regulations. The regulations therefore render Rev. Rul. 76–561 obsolete, effective for deposits periods beginning after March 31, 1991.

The regulations also restate the rules set forth in Notice 90–37 regarding the interplay between the statutorily-imposed deposit due dates set forth in section 6302(g) of the Code and the deposit due dates set forth in § 31.6302(c)–1 and § 31.6302(c)–2 of the regulations, and revise these rules to reflect the changes made by the Omnibus Budget Reconciliation Act of 1990.

Pursuant to the Congressional mandate in section 226 of the Railroad Retirement Solvency Act of 1983 that the times prescribed for making deposits of railroad retirement taxes be the same as the times prescribed for making deposits of FICA and withheld income taxes, these regulations are applicable to railroad retirement taxes as well as to FICA and withheld income taxes. Form CT–1, Employer's Annual Railroad Retirement and Unemployment Repayment Tax Return, sets forth instructions for application of the rule in section 6302(g) of the Code for periods prior to the effective date of these final regulations.

One commentator objected to the regulations for "eliminating any consideration of overdeposited amounts from prior periods when applying deposit rules to future unpaid liabilities." Under § 31.6302(c)–1(a)(1)(ii)(*f*), although an overdeposit from one deposit period is credited to the taxpayer's account to satisfy any succeeding deposit obligation within the same return period, the overdeposited amount may not be used to reduce the amount of the aggregate taxes accumulated in the next succeeding deposit period. The taxpayer does of course receive credit for the prior overdeposit in determining the actual amount required to be deposited. As noted above, the regulations are designed to prevent employers from making small pre-deposits during a deposit period in order to postpone an otherwise larger deposit obligation that would arise at the close of the deposit period. If the regulations allowed an overdeposit from a period to reduce the aggregate amount of taxes accumulated in the next period, then employers could accomplish through the use of overdeposits what they cannot accomplish through the use of pre-deposits. Accordingly, the commentator's suggested change to the regulations is not adopted.

Two commentators suggested that § 31.6302(c)–1(a)(1)(ii)(*f*) conflicts with § 1.1461–4 of the Income Tax Regulations and § 35a.9999–3, Q. & A. 39, of the Temporary Employment Tax Regulations. The Service does not believe that the difference between the sections represents a conflict. Rather the difference between the sections reflects a difference between the problem addressed by § 31.6302(c)–1(a)(1)(ii)(*f*) (i.e., adjustments for true overdeposits) and the problem addressed by § 1.1461–4 and Q. & A. 39 of § 35a.9999–3 (i.e., adjustments to initially correct deposits that resulted from overwithholding). Accordingly, the final regulations do not adopt the commentators' suggestion.

Another commentator believed the regulations did not allow employers to make pre-deposits and, therefore, the regulations might tempt some employers to divert the funds to other uses. The regulations are not intended to discourage employers from making voluntary deposits of employment taxes. Voluntary deposits may be made but such deposits do not affect the aggregate amount of taxes accumulated with respect to wages paid during a specified deposit period for purposes of determining the deposit obligation for that deposit period.

Special Analyses

It has been determined that these rules are not major rules as defined in Executive Order 12291. Therefore, a Regulatory Impact Analysis is not required. It has also been determined that section 553(b) of the Administration Procedure Act (5 U.S.C. chapter 5) and the Regulatory Flexibility Act (5 U.S.C. chapter 6) do not apply to these regulations, and, therefore, a final Regulatory Flexibility Analysis is not required. Pursuant to section 7805(f) of the Internal Revenue Code, the notice of proposed rulemaking for the regulations was submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on their impact on small business.

Drafting Information

The principal author of these regulations is Vincent G. Surabian, Office of the Assistant Chief Counsel (Income Tax and Accounting), Internal Revenue Service. However, personnel from other offices of the Internal Revenue Service and Treasury Department have participated in their development.

List of Subjects in 26 CFR Part 31

Employment taxes, Gambling, Income taxes, Lotteries, Penalties, Pensions, Railroad retirement, Reporting and recordkeeping requirements, Social Security, Unemployment compensation, Withholding.

Adoption of Amendments to the Regulations

Accordingly, title 26, part 31, of the Code of Federal Regulations is amended as follows:

Paragraph 1. The authority for part 31 continues to read in part:

Authority: 26 U.S.C. 7805 * * *.

Par. 2. Section 31.6302(c)–1 is amended as follows:

1. The heading of paragraph (a) and introductory language in paragraph (a)(1)(i) is revised to read as set forth below.

2. The text of § 31.6302(c)–1(a)(1)(ii) is revised to read as set forth below.

§ 31.6302(c)–1 Use of Government depositaries in connection with taxes under Federal Insurance Contributions Act and income tax withheld.

(a) *Requirement for calendar months beginning after December 31, 1980*—(1) *In general.* (i) In the case of a calendar month which begins after December 31, 1980, but before April 1, 1991—

* * * * *

(ii) In the case of a calendar month which begins after March 31, 1991—

(*a*) Except as provided in § 31.6302(c)–1(a)(1)(ii) (*b*) or (*c*), or § 31.6302(c)–1(b), if with respect to any calendar month the aggregate amount of taxes (as defined in § 31.6302(c)–1(a)(1)(iii)) accumulated with respect to wages paid is $500 or more, but less than $3,000, then the employer shall deposit that

aggregate amount in a Federal Reserve bank or authorized financial institution within 15 calendar days after the close of that calendar month. Taxes accumulated with respect to wages paid in a prior calendar month within the same return period shall not be taken into account in determining the aggregate amount of taxes accumulated if a deposit was required to be made under this section with respect to such tax amounts. Deposits made during the calendar month of taxes with respect to wages paid during that month do not reduce the aggregate amount of taxes accumulated for purposes of determining the deposit requirement (if any) for that month.

Example 1: Employer *A*'s aggregate amount of taxes accumulated with respect to wages paid in April 1991 is $800. Since that amount is in excess of $500, but less than $3,000, *A* must deposit the $800 in a Federal Reserve bank or authorized financial institution by May 15, 1991.

Example 2: Employer *B*'s aggregate amount of taxes accumulated with respect to wages paid in April 1991 is $400. Since that amount is less than $500, *B* has no deposit obligation for the month of April. In May 1991 *B*'s aggregate amount of taxes accumulated with respect to wages paid during the month is $450. Since the $400 in taxes in April was not required to be deposited, that amount is taken into account in determining if a deposit is required for May. The aggregate amount of taxes accumulated with respect to wages paid for the two months is in excess of $500, thus requiring a deposit. Since June 15, 1991, is a Saturday, *B* must deposit the $850 in a Federal Reserve bank or authorized financial institution by Monday, June 17, 1991, pursuant to section 7503 of the Code.

Example 3: The facts are the same as in *Example 2* except that *B* deposits the $400 in taxes from April on May 15, 1991. Because the $400 was not required to be deposited, that amount is taken into account in determining if a deposit obligation exists for May. Since the aggregate amount of taxes accumulated with respect to wages paid for the two months, $850, is in excess of $500, a deposit in the aggregate amount of $850 is required by Monday, June 17, 1991. Since $400 was previously deposited, *B* must deposit an additional $450 by June 17, 1991.

Example 4: On Friday, April 5, 1991, a payroll date, Employer *C* accumulates $450 in taxes with respect to wages paid on that date. Although not required to do so, *C* deposits the $450 in an authorized depository. On Friday, April 19, 1991, *C* accumulates an additional $450 in taxes with respect to wages paid. The aggregate amount of taxes accumulated with respect to wages paid during the calendar month is $900. *C* has a deposit obligation of $900 for the calendar month and must deposit an additional $450 in an authorized depository by May 15, 1991.

(*b*) Except as provided in § 31.6302(c)–1(a)(1)(ii)(*c*) or § 31.6302(c)–1(b), and except in the case of first-time 3-banking-day depositors (as defined in § 31.6302(c)–1(a)(1)(i)(*b*)(*2*)), if with respect to any eighth-monthly period (as defined in § 31.6302(c)–1(a)(1)(i)(*b*)) the aggregate amount of taxes accumulated with respect to wages paid is $3,000 or more, but less than $100,000, the employer shall deposit that aggregate amount in a Federal Reserve bank or authorized financial institution within 3 banking days after the close of that eighth-monthly period. Taxes accumulated with respect to wages paid during a prior eighth-monthly period shall not be taken into account if a deposit was required to be made under this section with respect to tax amounts. Deposits made during the eighth-monthly period of taxes with respect to wages paid during that eighth-monthly period do not reduce the aggregate amount of taxes accumulated for purposes of determining the deposit requirement (if any) for that eighth-monthly period. Solely for purposes of the examples in this paragraph (a)(1)(ii)(*b*) and paragraphs (a)(1)(ii)(*c*), (*d*), and (*f*) of this section, "banking days" are assumed to include all calendar days except Saturdays, Sundays, and Federal holidays.

Example 1: For the eighth-monthly period April 1–3, 1991, Employer *D*'s aggregate amount of taxes accumulated with respect to wages paid is $3,500. Since that amount is in excess of $3,000, but less than $100,000, *D* has a deposit obligation of $3,500 that must be satisfied by April 8, 1991, the third banking day after the close of the eighth-monthly period.

Example 2: For the eighth-monthly period April 1–3, 1991, Employer *E*'s aggregate amount of taxes accumulated with respect to wages paid is $3,500. *E* has a deposit obligation of $3,500 that must be satisfied by April 8, 1991, three banking days after the close of the April 1–3 eighth-monthly period. For the eighth-monthly period April 4–7, 1991, *E*'s aggregate amount of taxes accumulated with respect to wages paid is $2,800. Since *E* was required to make a deposit for the April 1–3 eighth-monthly period, that $3,500 amount is not taken into account in determining any obligations that arise in subsequent eighth-monthly periods. *E* does not have an eighth-monthly deposit obligation with respect to the April 4–7 period.

Example 3: For the eighth-monthly period April 1–3, 1991, Employer *F*'s aggregate amount of taxes accumulated with respect to wages paid is $2,800. Since that amount is less than $3,000, no deposit is required with respect to that eighth-monthly period. For the eighth-monthly period April 4–7, 1991, *F*'s aggregate amount of taxes accumulated with respect to wages paid is $2,500. Since *F* was not required to deposit the $2,800 in taxes from the April 1–3 eighth-monthly period, that amount is taken into account in determining *F*'s deposit obligation for the April 4–7 eighth-monthly period. The aggregate amount of taxes accumulated for the two eighth-monthly periods is $5,300. *F* has a deposit obligation of $5,300 that must be satisfied by April 10, 1991, three banking days after the close of the April 4–7 eighth-monthly period.

Example 4: The facts are the same as in *Example 3* except that *F* deposits the $2,800 from the April 1–3 eighth-monthly period on April 4, 1991. Because the $2,800 was not required to be deposited, that amount is taken into account in determining *F*'s deposit obligation for the April 4–7 eighth-monthly period. The aggregate amount of taxes accumulated for the two eighth-monthly periods is $5,300. Since that amount is in excess of $3,000, a deposit obligation exists after the close of the April 4–7 eighth-monthly period. As $2,800 of that amount was previously deposited, *F* has a deposit obligation of $2,500 that must be satisfied by April 10, 1991, three banking days after the close of the April 4–7 eighth-monthly period.

Example 5: On Friday, April 12, 1991, the beginning of an eighth-monthly period (April 12–15), *G* accumulates $3,500 in taxes with respect to wages paid and deposits the $3,500 in an authorized depository on that date although a deposit of the $3,500 was not required to be made on that date. On Monday, April 15, 1991, the end of the April 12–15 eighth-monthly period, *G* accumulates an additional $2,000 in taxes with respect to wages paid. The aggregate amount of taxes accumulated with respect to wages paid during the April 12–15 eighth-monthly period of $5,500. *G* has a deposit obligation for the eighth-monthly period of $5,500. Since $3,500 of that amount was previously deposited, *G* has a remaining deposit obligation of $2,000 that must be satisfied by Thursday, April 18, 1991, three banking days after the close of the eighth-monthly period.

(*c*) If on any day within an eighth-monthly period the aggregate amount of taxes accumulated with respect to wages paid is $100,000 or more, the employer shall deposit that aggregate amount in a Federal Reserve bank or authorized financial institution on the first banking day after that day. Taxes accumulated with respect to wages paid prior to that day shall not be taken into account if a deposit was required under this section with respect to such tax amounts. Taxes deposited on any given day with respect to wages paid on that day do not reduce the aggregate amount of taxes accumulated on that day for purposes of determining the deposit requirement (if any) for that day.

Example 1: On Thursday, April 4, 1991, the beginning of the April 4–7 eighth-monthly period, Employer *H* accumulates $55,000 in taxes with respect to wages paid on that date. On Saturday, April 6, 1991, *H* accumulates an additional $50,000 in taxes with respect to wages paid. *H* has a deposit obligation of $105,000 that must be satisfied by Monday, April 8, the next banking day after Saturday, April 6.

Example 2: On Friday, April 12, 1991, the beginning of the April 12–15 eighth-monthly period, *J* accumulates $60,000 in taxes with respect to wages paid and deposits the

$60,000 in an authorized depository on that date although a deposit of the $60,000 was not required to be made on that date. On Monday, April 15, 1991, the last day in the April 12–15 eighth-monthly period, *J* accumulates an additional $50,000 in taxes with respect to wages paid. On Monday, April 15, the aggregate amount of taxes accumulated with respect to wages paid during the eighth-monthly period to date totals $110,000. *J* has a $110,000 deposit obligation that must be satisfied by the next banking day after the $100,000 threshold is reached. Since $60,000 of the $110,000 was already deposited, *J* has a remaining deposit obligation of $50,000 that must be satisfied by Tuesday, April 16, 1991, the next banking day following April 15th.

Example 3: On Monday, April 1, 1991, Employer *K* accumulates $105,000 in taxes with respect to wages paid on that date. On that same day, *K* deposits in an authorized depository $10,000 of the $105,000 accumulated. *K* has a $105,000 deposit obligation that must be satisfied by the next banking day, April 2, 1991. The $10,000 deposited on April 1 cannot be used to reduce the aggregate amount of accumulated taxes with respect to that date. *K* has a remaining deposit obligation of $95,000 that must be satisfied by April 2, 1991.

(*d*) If, with respect to any eighth-monthly period, an employer incurs an obligation to deposit in accordance with § 31.6302(c)–1(a)(1)(ii)(*c*), and later, within the same eighth-monthly period, accumulates with respect to wages paid taxes of $3,000 or more, but less than $100,000, an additional deposit is required in accordance with § 31.6302(c)–1(a)(1)(ii)(*b*). However, if the amount of taxes is $100,000 or more, an additional deposit is required in accordance with § 31.6302(c)–1(a)(1)(ii)(*c*).

Example: On Tuesday, April 2, 1991, Employer *L* accumulates $110,000 in aggregate taxes with respect to wages paid. In accordance with paragraph (a)(1)(ii)(*c*) of this section, *L* has a $110,000 deposit obligation that must be satisfied by Wednesday, April 3, 1991, the next banking day following April 2. On Wednesday, April 3, 1991, *L* accumulates an additional $10,000 in taxes with respect to wages paid that date. In accordance with paragraph (a)(1)(ii)(*b*) of this section, *L* now has an additional deposit obligation of $10,000 that must be satisfied by Monday, April 8, 1991, the 3rd banking day following the close of the April 1–3 eighth-monthly period. The obligation to deposit the $10,000 is separate and distinct from the obligation to deposit the $110,000.

(*e*) An employer will be considered to have satisfied the deposit obligation imposed by paragraphs (a)(1)(ii) (*b*), (*c*) and (*d*) of this section if—

(*1*) The deposit that is made is not less than 95 percent of the aggregate amount of taxes accumulated with respect to wages paid during the period for which the deposit is made, and

(*2*) If the eighth-monthly period (or, in the case of a deposit required under paragraph (a)(1)(ii)(*c*) of this section, the day on which the obligation arose) is in a month other than the last month of the return period, the employer deposits any remaining amount due with the first deposit otherwise required to be made after the fifteenth day of the following month. In the case of the last month of the return period, see § 31.6302(c)–1(a)(1)(iv).

(*f*) Any excess of a deposit over the actual taxes required to be deposited to date (overdeposit) during the return period shall be applied in order of time to each of the employer's succeeding deposit obligations within the same return period. In the determination of the aggregate amount of taxes accumulated with respect to wages paid in succeeding deposit periods, the overdeposit does not reduce the aggregate amount accumulated although the overdeposit is credited to the depositor's account.

Example: Employer *M*'s deposit obligation for the eighth-monthly period April 1–3, 1991, is $3,200. On April 8, 1991, three banking days after the close of the eighth-monthly period, *M* deposits $4,000 in an authorized depository, $800 in excess of the amount required to be deposited. During the eighth-monthly period April 4–7, 1991, *M* accumulates $3,750 in taxes with respect to wages paid during such period. Although the $800 overdeposit for the April 1–3 eighth-monthly period is credited to *M*'s account, it may not be used to determine whether a deposit obligation exists for the April 4–7 eighth-monthly period. The two deposit obligations are separate and distinct. Since the amount of taxes accumulated with respect to the April 4–7 eighth-monthly period is an amount greater than $3,000, a deposit is required under paragraph (a)(1)(ii)(*b*) of this section within three banking days after the close of the period. *M* has a remaining deposit obligation of $2,950 ($3,750 accumulated less $800 overdeposit) that must be satisfied by April 10, 1991, three banking days after the close of the period.

(*g*) The periods within which taxes must be deposited under this section are determined, in the case of employers paying advance earned income credit amounts, by reference to the amount of taxes required to be deposited after reduction for advance amounts paid to employees.

(*h*) For purposes of this paragraph (a)(1)(ii), the term "wages paid" includes all amounts included in wages, e.g., under section 3121(v) of the Code, regardless of whether they have actually been paid.

* * * * *

Par. 3. Section 31.6302(c)–2 is amended as follows:

1. The heading of paragraph (a)(1) of § 31.6302(c)–2 is revised to read as set forth below.

2. In the first sentence of paragraph (a)(1), the language "after December 31, 1983," is removed in the three places it appears and the language "after December 31, 1983, and before April 1, 1991," is added in its place.

3. Section 31.6302(c)–2(a)(2) is revised to read as set forth below.

§ 31.6302(c)–2 Use of Government depositaries in connection with employee and employer taxes under Railroad Retirement Tax Act.

(a) *Requirement*—(1) *In general: After 1983 and before April 1, 1991.* * * *

(2) *In general; after March 31, 1991.* In the case of a calendar month which begins after March 31, 1991, if, at a time prescribed under § 31.6302(c)–1(a)(1)(ii) or (v) for the deposit of accumulated taxes, the aggregate amount of accumulated employee tax withheld after March 31, 1991, under section 3202 and employer tax imposed after March 31, 1991, under section 3221(a) and (b) equals an amount required to be deposited under § 31.6302(c)–1(a)(1)(ii) or (v), the employer shall deposit the accumulated railroad retirement taxes described in sections 3202 and 3221 at the time and in the manner prescribed in § 31.6302(c)–1(a)(1)(ii) or (v) (except that accumulated railroad retirement taxes described in section 3221(c) shall in no case be required to be deposited earlier than the first day on which a deposit is otherwise required by § 31.6302(c)–1(a)(1)(ii) to be made after the 15th day of the month following the month in which the section 3221(c) tax arises). Notwithstanding the preceding sentence, and notwithstanding § 31.6302(c)–1(a)(1)(v), if, for the calendar year prior to the calendar year preceding the current calendar year, the aggregate amount of taxes imposed under sections 3202 and 3221 with respect to an employer equalled or exceeded $1 million, such employer shall deposit the aggregate amount of railroad retirement taxes required to be deposited for the current calendar year in accordance with Revenue Procedure 83–90, 1983–2 C.B. 615 (relating to transfers by wire to the Treasury).

* * * * *

Par. 4. In the second sentence of paragraph (b)(2) of § 31.6302(c)–2, the language "paragraph (a)(1)" is removed and the language "paragraph (a)(1) or (a)(2) of this section" is added in its place.

Approved: March 25, 1991.

Fred T. Goldberg, Jr.,

Commissioner of Internal Revenue.

Kenneth W. Gideon,

Assistant Secretary of the Treasury.

[FR Doc. 91-7601 Filed 3-27-91; 3:54 pm]

BILLING CODE 4830-01-M

DEPARTMENT OF LABOR

Mine Safety and Health Administration

30 CFR Parts 7, 70, and 75

RIN 1219-AA27

Approval, Exposure Monitoring, and Safety Requirements for the Use of Diesel-Powered Equipment in Underground Coal Mines

AGENCY: Mine Safety and Health Administration, Labor.

ACTION: Extension of comment period; close of record.

SUMMARY: The Mine Safety and Health Administration (MSHA) is extending the period for post-hearing comments on the Agency's proposed regulations on the use of diesel-powered equipment in underground coal mines. The extension will allow interested parties an opportunity to review all hearing transcripts before submitting post-hearing comments.

DATE: Post-hearing comments must be received on or before May 10, 1991, at which time the rulemaking record will close.

ADDRESS: Send comments to the Office of Standards, Regulations and Variances, MSHA, room 631, Ballston Tower No. 3, 4015 Wilson Boulevard, Arlington, Virginia 22203.

FOR FURTHER INFORMATION CONTACT: Patricia W. Silvey, Director, Office of Standards, Regulations and Variances, MSHA (703) 235-1910.

SUPPLEMENTARY INFORMATION: On October 4, 1989, MSHA published proposed regulations that addressed approval, exposure monitoring, and safety requirements in 30 CFR parts 7, 70, and 75 for the use of diesel-powered equipment in underground coal mines (54 FR 40950). The written comment period for this proposed rule ended on July 6, 1990. In the comments to the proposed rule, MSHA received a request for public hearings.

On December 27, 1990, and January 30, 1991, MSHA published notices of public hearings (55 FR 53184 and 56 FR 3433, respectively). The notices stated that MSHA would accept additional written post-hearing comments until March 26, 1991. Due to requests from the mining community, MSHA is extending the post-hearing comment period to May 10, 1991. All interested parties are encouraged to submit comments prior to that date.

Dated: March 26, 1991.

William J. Tattersall,

Assistant Secretary for Mine Safety and Health.

[FR Doc. 91-7592 Filed 4-1-91; 8:45 am]

BILLING CODE 4510-43-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 53

[OST Docket No. 46987; Enactment]

RIN 2105-AB68

Coast Guard Whistleblower Protection

AGENCY: Office of the Secretary, DOT.

ACTION: Final rule.

SUMMARY: This final rule implements the whistleblower protection provisions contained in Public Law 100-456. The rule applies to the United States Coast Guard, the Board for Correction of Military Records of the Coast Guard, and the Department of Transportation's Inspector General. It establishes procedures to ensure that members of the United States Coast Guard are protected from reprisals for making, or preparing to make, lawful communications to a Member of Congress or an Inspector General. In addition, the rule specifically requires the reporting and investigation of reprisal allegations, and provides for remedies when reprisal is found, including disciplinary action against any person taking reprisal and the correction of military records when appropriate.

DATES: Effective May 2, 1991.

FOR FURTHER INFORMATION CONTACT: Joanne Petrie, Office of the Assistant General Counsel for Regulation and Enforcement (C-50), room 10424 (202) 366-9306, or Robert H. Joost, Chairman, Board for Correction of Military Records (C-60), room 5432 (202) 366-9335, U.S. Department of Transportation, 400 Seventh Street SW., Washington, DC 20590.

SUPPLEMENTARY INFORMATION: Public Law 100-456 sets forth specific protections to be afforded to members of the Armed Forces who make lawful communications to a Member of Congress or to an Inspector General. Public Law 101-225, a technical correction, clarifies that, when the Coast Guard is not operating as a service in the Navy, Coast Guard members must submit complaints under this Act to the Inspector General of the Department of Transportation, and that the Secretary of Transportation may, if necessary, provide final review of the action.

Members of the Armed Forces who become aware of information evidencing wrongdoing or waste of funds generally have a duty to report such information through the chain of command. Public Law 100-456 establishes that those individuals also have the right to communicate directly with a Member of Congress or an Inspector General, unless the communication is unlawful under applicable law or regulation. When these individuals make lawful disclosures, the statute mandates that they be protected from adverse personnel consequences, or the threat of such consequences. These individuals have the right to a prompt investigation and administrative review of claims of reprisals. If any claim of reprisal is found meritorious, the Secretary of Transportation is required to initiate appropriate corrective action, and the Board for Correction of Military Records should entertain any application for correction of records submitted by an aggrieved member.

The Department published a notice of proposed rulemaking (NPRM) to implement these statutory changes on June 26, 1990 (55 FR 25983). The NPRM, which contains an extensive discussion of the statute and proposed regulatory language, provided a 60-day comment period, which closed on August 27, 1990. No comments were filed in response to the NPRM. The Department is therefore adopting the notice as proposed with minor clarifying changes that more closely track the statutory language.

Regulatory Impact

I certify under the criteria of the Regulatory Flexibility Act that this final rule will not have a significant economic impact on a substantial number of small entities. Furthermore, it is not a major rule under Executive Order 12291, nor a significant rule under DOT Regulatory Policies and Procedures, 44 FR 11034, for the same reason. The economic impact is so minimal that it does not warrant preparation of a full regulatory evaluation. The final rule has also been analyzed in accordance with the principles and criteria contained in Executive Order 12612, and I have determined that it does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment. Finally, I have determined that this rulemaking is not a major

Federal action significantly affecting the quality of the human environment under the National Environmental Policy Act and that an environmental impact statement is not required. The rule does not establish any new requirements under the Paperwork Reduction Act.

List of Subjects in 33 CFR Part 53

Administrative practice and procedure, Fraud, Investigations, Military personnel, Whistleblowing.

Accordingly, title 33 of the Code of Federal Regulations is amended to add part 53 as follows:

PART 53—COAST GUARD WHISTLEBLOWER PROTECTION

Sec.
53.1 Purpose.
53.3 Applicability.
53.5 Definitions.
53.7 Requirements.
53.9 Responsibilities.
53.11 Procedures.

Authority: 10 U.S.C. 1034, Pub. L. 100-456, Pub. L. 101-225.

§ 53.1 Purpose.

This part:

(a) Establishes policy and implements section 1034 of title 10 of the United States Code to provide protection against reprisal to members of the Coast Guard for making a lawful communication to a Member of Congress or an Inspector General.

(b) Assigns responsibilities and delegates authority for such protection and prescribes operating procedures.

§ 53.3 Applicability.

This part applies to members of the United States Coast Guard, the Board for Correction of Military Records of the Coast Guard, and the Department of Transportation's Office of the Inspector General.

§ 53.5 Definitions.

As used in this part, the following terms shall have the meaning stated, except as otherwise provided:

Board for Correction of Military Records of the Coast Guard. The Department of Transportation Board for Correction of Military Records of the Coast Guard (Board) is empowered under 10 U.S.C. 1552 to make corrections of Coast Guard military records. The Board is part of the Office of the General Counsel in the Office of the Secretary of Transportation.

Corrective Action. Any action deemed necessary to make the complainant whole, changes in agency regulations or practices, and/or administrative or disciplinary action against offending personnel, or referral to the U.S. Attorney General or courtmartial convening authority of any evidence of criminal violation.

Inspector General. The Inspector General in the Office of Inspector General of the Department of Transportation, as appointed under the Inspector General Act of 1978.

Law Specialist. A commissioned officer of the Coast Guard designated for special duty (law).

Member of the Coast Guard. Any past or present Coast Guard uniformed personnel, officer or enlisted, regular or reserve. This definition includes cadets of the Coast Guard Academy.

Member of Congress. In addition to a Representative or a Senator, the term includes any Delegate or Resident Commissioner to Congress.

Personnel Action. Any action taken regarding a member of the Coast Guard that adversely affects or has the potential to adversely affect the member's position or his or her career. Such actions include, but are not limited to, a disciplinary or other corrective action; a transfer or reassignment; a performance evaluation; or a decision concerning a promotion, pay, benefits, awards, or training.

Reprisal. Taking or threatening to take an unfavorable personnel action or withholding or threatening to withhold a favorable personnel action against a member of the Coast Guard for making or preparing to make a communication to a Member of Congress or an Inspector General.

Secretary. The Secretary of Transportation or his or her delegate.

§ 53.7 Requirements.

(a) No person within the Department of Transportation may restrict a member of the Coast Guard from lawfully communicating with a Member of Congress or an Inspector General.

(b) Members of the Coast Guard shall be free from reprisal for making or preparing to make lawful communications to Members of Congress or an Inspector General.

(c) Any employee or member of the Coast Guard who has the authority to take, direct others to take, or recommend or approve any personnel action shall not, under such authority, take, withhold, threaten to take, or threaten to withhold a personnel action regarding any member of the Coast Guard in reprisal for making or preparing to make a lawful communication to a Member of Congress or an Inspector General.

§ 53.9 Responsibilities.

(a) The Inspector General, Department of Transportation shall:

(1) Expeditiously investigate any allegation, if such allegation is submitted, that a personnel action has been taken (or threatened) in reprisal for making or preparing to make a lawful communication to a Member of Congress or an Inspector General concerning a complaint or disclosure of information that the member reasonably believes constitutes evidence of a violation of law or regulation, mismanagement, a gross waste of funds, an abuse of authority, or a substantial and specific danger to public health or safety. No investigation is required when such allegation is submitted more than 60 days after the Coast Guard member became aware of the personnel action that is the subject of the allegation.

(2) Initiate a separate investigation of the information the Coast Guard member believes evidences wrongdoing if such investigation has not already been initiated. The Inspector General is not required to make such an investigation if the information that the Coast Guard member believes evidences wrongdoing relates to actions that took place during combat.

(3) Complete the investigation of the allegation of reprisal and issue a report not later than 90 days after receipt of the allegation, which shall include a thorough review of the facts and circumstances relevant to the allegation, the relevant documents acquired during the investigation, and summaries of interviews conducted. The Inspector General may forward a recommendation as to the disposition of the complaint.

(4) Submit a copy of the investigation report to the Secretary of Transportation and to the Coast Guard member making the allegation not later than 30 days after the completion of the investigation. The copy of the report issued to the Coast Guard member may exclude any information not otherwise available to the Coast Guard member under the Freedom of Information Act (5 U.S.C. 552).

(5) If a determination is made that the report cannot be issued within 90 days of receipt of the allegation, notify the Secretary and the Coast Guard member making the allegation of the reasons why the report will not be submitted within that time, and state when the report will be submitted.

(6) At the request of the Board, submit a copy of the investigative report to the Board.

(7) After the final action with respect to an allegation filed under this part, whenever possible, interview the person who made the allegation to determine

the views of that person concerning the disposition of the matter.

(b) The Board shall, in accordance with its regulations (33 CFR part 52):

(1) Consider under 10 U.S.C. 1552 and 33 CFR part 52 an application for the correction of records made by a Coast Guard member who has filed a timely complaint with the Inspector General, alleging that a personnel action was taken in reprisal for making or preparing to make a lawful communication to a Member of Congress or an Inspector General. This may include oral argument, examining and cross-examining witnesses, taking depositions, and conducting an evidentiary hearing at the Board's discretion.

(2) Review the report of any investigation by the Inspector General into the Coast Guard member's allegation of reprisal.

(3) As deemed necessary, request the Inspector General to gather further evidence and issue a further report to the Board.

(4) Issue a final decision concerning the application for the correction of military records under this part not later than 180 days after receipt of a complete application.

(c) If the Board elects to hold an administrative hearing, the Coast Guard member may be represented by a Coast Guard law specialist if:

(1) The Inspector General, in the report of the investigation, finds there is probable cause to believe that a personnel action was taken, withheld, or threatened in reprisal for the Coast Guard member making or preparing to make a lawful communication to a Member of Congress or an Inspector General;

(2) The Chief Counsel of the Coast Guard determines that the case is unusually complex or otherwise requires the assistance of a law specialist to ensure proper presentation of the legal issues in the case; and

(3) The Coast Guard member is not represented by outside counsel chosen by the member.

(d) If the Board elects to hold an administrative hearing, the Board must ensure that the Coast Guard member may examine witnesses through deposition, serve interrogatories, and request the production of evidence, including evidence in the Inspector General investigatory record but not included in the report released to the member.

(e) If the Board determines that a personnel action was taken in reprisal for a Coast Guard member making or preparing to make a lawful communication to a Member of Congress or an Inspector General, the Board may forward its recommendation to the Secretary for the institution of appropriate administrative or disciplinary action against the individual or individuals found to have taken reprisal, and direct any appropriate correction of the member's records.

(f) The Board shall notify the Inspector General of the Board's decision concerning an application for the correction of military records of a Coast Guard member who alleged reprisal for making or preparing to make a lawful communication to a Member of Congress or an Inspector General, and of any recommendation to the Secretary for appropriate administrative or disciplinary action against the individual or individuals found to have taken reprisal.

(g) When reprisal is found, the Secretary shall ensure that appropriate corrective action is taken.

§ 53.11 Procedures.

(a) Any member of the Coast Guard, who reasonably believes a personnel action (including the withholding of an action) was taken or threatened in reprisal for making or preparing to make a lawful communication to a Member of Congress or an Inspector General, may file a complaint with the DOT Inspector General Hotline under this part. Such a complaint may be filed by telephone, or by letter addressed to the Department of Transportation, Office of Inspector General, Hotline Center, P.O. Box 23178, Washington, D.C. 20026-0178. Telephone Numbers: 1-800-424-9071, FTS 8-366-1461. The commercial number is (202) 366-1461.

(b) The complaint should include the name, address, and telephone number of the complainant; the name and location of the activity where the alleged violation occurred; the personnel action taken, or threatened, that is alleged to be motivated by reprisal; the individual(s) believed to be responsible for the personnel action; the date when the alleged reprisal occurred; and any information that suggests or evidences a connection between the communication and reprisal. The complaint should also include a description of the communication to a Member of Congress or an Inspector General including a copy of any written communication and a brief summary of any oral communication showing date of communication, subject matter, and the name of the person or official to whom the communication was made.

(c) A member of the Coast Guard who is alleging reprisal for making or preparing to make a lawful communication to a Member of Congress or an Inspector General, may submit an application for the correction of military records to the Board, in accordance with regulations governing the Board. See 33 CFR part 52.

(d) An application submitted under paragraph (c) of this section shall be considered in accordance with regulations governing the Board. See 33 CFR part 52.

Issued in Washington, DC, on March 26, 1991.

Samuel K. Skinner,

Secretary.

[FR Doc. 91-7600 Filed 4-1-91; 8:45 am]

BILLING CODE 4910-62-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 261

[EPA/OSW FR-91-015; FR-3914-2]

RIN 2050-AA78

Hazardous Waste Management System; Identification and Listing of Hazardous Waste; Toxicity Characteristic; Hydrocarbon Recovery Operations

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: On November 7, 1990, the Agency proposed to extend the compliance date for the Toxicity Characteristic until January 25, 1993 for produced groundwater from free phase hydrocarbon recovery operations at certain petroleum industry sites—namely, refineries, marketing terminals, and bulk plants. Made aware of likely disruptions to cleanup operations at these facilities after the Toxicity Characteristic rulemaking process, the Agency concluded that an extension of the compliance date would ensure that these operations would not be interrupted and thereby avoid setbacks in their remediation activities.

The Agency is today making final this proposed extension. However, the scope of the extension has been expanded to include free hydrocarbon recovery operations at petroleum pipeline and transportation sector spill sites as well as petroleum refineries, marketing terminals, and bulk plants. Additionally, free phase hydrocarbon recovery operations involving infiltration galleries will not be included in the scope of the extension.

EFFECTIVE DATE: March 25, 1991.

ADDRESSES: The public docket for this rulemaking is located at room M2427, U.S. Environmental Protection Agency, 401 M Street SW., Washington, DC 20460. The docket number assigned to this notice is F–90–PRAS–FFFFF. The EPA RCRA docket is open from 9 a.m. to 4 p.m., Monday through Friday, excluding Federal holidays. To review docket materials, the public must make an appointment by calling (202) 475–9327. A maximum of 50 pages may be copied from any regulatory docket at no cost. Additional copies cost $0.20 per page.

FOR FURTHER INFORMATION CONTACT: For general information about this notice, contact the RCRA/Superfund Hotline at (800) 424–9346 toll free, or (703) 920–9810 in the Washington, DC metropolitan area. For information on specific aspects of this notice, contact Dave Topping, Waste Identification Branch, Office of Solid Waste (OS–333), U.S. Environmental Protection Agency, 401 M Street SW., Washington, DC 20460 (202) 382–7737.

SUPPLEMENTARY INFORMATION:

I. Background

On March 29, 1990, the Agency promulgated the Toxicity Characteristic (TC), one of the hazardous waste characteristics used to identify wastes defined as hazardous under subtitle C of the Resource Conservation and Recovery Act (RCRA) (see 55 FR 11798). The effective date for that rule was September 25, 1990.

After the promulgation of the Toxicity Characteristic rule, it was brought to the Agency's attention that application of the Toxicity Characteristic was likely to have detrimental effects on certain environmental cleanup operations at a number of petroleum refineries, marketing terminals, and bulk plants. More specifically, produced groundwater from free phase hydrocarbon recovery operations (which often exceeds the TC regulatory level for benzene) is often reinjected for purposes of plume control in systems designed to facilitate the recovery of free phase hydrocarbon. The injection wells used in these operations are subject to regulation under both the Safe Drinking Water Act (SDWA) and RCRA. These wells, which have historically been UIC Class V wells, would become Class IV wells once the TC rule became effective. However, Section 3020 of RCRA and SDWA regulations prohibit the injection of hazardous waste into or above an underground source of drinking water (*e.g.*, operation of a SDWA Class IV well) unless the injection is part of a cleanup under RCRA or the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA). Since many of the free phase hydrocarbon recovery operations do not currently meet the Section 3020 requirements, and because they do not have hazardous waste underground injection permits, the continued operation of the wells would be prohibited upon the effective date of the TC, forcing the recovery operations to cease. In cases where the reinjected groundwater accomplishes control of the free hydrocarbon plume, the plume would no longer be contained, possibly resulting in increased exposure due to migration of the plume.

In order to avoid these environmentally detrimental consequences, the Agency proposed to extend the TC compliance date until January 25, 1993 for reinjected produced groundwater from free phase hydrocarbon recovery operations at petroleum refineries, marketing terminals, and bulk plants. (see 55 FR 46829, November 7, 1990). In order to allow these operations to continue while comments on that proposal were being solicited and evaluated, the Agency issued interim final rules on October 5, 1990 and February 1, 1991, extending the compliance date for these operations through March 25, 1991 (see 55 FR 40834 and 56 FR 3978, respectively).

During the interim period (until January 25, 1993), the Agency intends to work with the states and the affected petroleum industry sectors to develop an approach that would allow the authorized operation of the injection wells in compliance with Section 3020 of RCRA and SDWA requirements for underground injection wells. This activity will be coordinated by the Office of Solid Waste, in conjunction with the Office of Drinking Water's Underground Injection Control Program.

Furthermore, the Agency views today's rule as a limited action to address an impossible situation facing hydrocarbon recovery operations. The Agency acknowledges that this rule does not address a number of other important issues raised by commenters as to the effect of the TC rule on cleanup activities (*e.g.*, the effect of the TC rule on petroleum-contaminated soils, or on the remediation of groundwater contaminated with dissolved hydrocarbons). The Agency intends to address these issues shortly in another context. Specifically, the Agency is preparing a response to petitions from the States of New York, South Dakota, and Nevada, requesting relief from the TC rule as it applies to cleanup of petroleum spills that are currently under state oversight. The Agency's response to these petitions will address many of the broader issues related to the cleanup of contaminated media that exhibits the Toxicity Characteristic.

II. Response to Comments

A. Scope of the Extension

The majority of comments on the Agency's proposal addressed the scope of the extension. These comments focused upon both the types of spill sites and the types of operations that should be subject to the extended compliance date.

1. Types of Spill Sites

Many commenters suggested that the types of spill sites subject to the extended compliance date be expanded beyond the proposed scope (petroleum refineries, marketing terminals, and bulk plants). Some commenters suggested including other petroleum industry sectors—namely, pipelines and transportation; others suggested including sites other than those associated with wholesale petroleum marketing (*e.g.*, the chemical manufacturing industry and other bulk petroleum storage). These commenters stated that recovery operations at these sites are identical to those at the proposed types of sites and that the same regulatory and statutory barriers exist.

The Agency recognizes that free phase hydrocarbon recovery operations can be similar, regardless of the industrial sector with which the spill site is associated. However, data indicating the numbers of potential sites and the nature of the recovery operations within the suggested additional categories was provided only by the petroleum industry for their pipeline and transportation sectors. This data indicates that only a relative few of these pipeline and transportation sector sites have current or planned free phase recovery operations which involve the reinjection of TC-hazardous produced groundwater. While commenters noted that similar free phase recovery operations occur in industries other than petroleum, data indicating the number of such sites was not provided. In the absence of such data for the other sectors, the Agency cannot evaluate the need for, or impacts of, further expanding the scope of the extension to include them. The Agency is therefore expanding the scope of the extension only to include the petroleum pipeline and transportation sectors. (Thus, for example, in a complex where a petroleum refinery is located near a chemical manufacturing facility, the

extension applies only to the produced groundwater from recovery of free phase hydrocarbon from the refinery. The Agency does, however, encourage the submission of more detailed data on free-phase hydrocarbon recovery at spill sites other than those that are included in today's final rule (*i.e.*, other than from the petroleum industry).

2. Types of Remediation Operations

(a) Dissolved Phase Remediation. The Agency's proposal specifically addressed free phase hydrocarbon recovery operations and the statutory and regulatory barriers to reinjection of produced groundwater from these operations. The Agency recognized these operations as a first step in spill remediation, which is often followed by remediation of the dissolved hydrocarbon in the groundwater and remediation of the soil. Numerous commenters requested that the scope of the extension include the remediation of dissolved hydrocarbon as well as recovery of the free phase hydrocarbon. Another commenter, however, urged the Agency to clarify that the extension would include only free phase recovery and would not include dissolved hydrocarbon remediation. (This commenter recognized that the preamble of the Agency's proposal clearly referred only to free phase recovery but was concerned that the proposed regulatory language was not sufficiently clear to indicate that dissolved phase remediation was not within the scope of the extension.)

Those commenters who suggested expanding the scope of the extension stated that the pump and treat operations used in dissolved phase remediation should not be subject to RCRA Subtitle C requirements. These commenters cited administrative burden as well as the time and expense related to permit requirements as a basis for including these operations in the extension.

The Agency believes that these commenters have raised important concerns that warrant further consideration. The purpose of the proposed extension, however, was to grant relief to those facilities that were in a regulatory "impossibility" situation. These facilities had recovery operations underway (or were committed to undertaking these operations), typically through agreements with state agencies, which would be halted if the produced groundwater was defined as a RCRA hazardous waste by the TC. At these facilities, the operation of the injection wells (as SDWA Class IV wells) would be prohibited under federal regulation but cessation of the operations could violate their agreement with the state agency. In addition, where the injected groundwater serves plume containment purposes, a halt in the operation of the wells could have an environmentally detrimental effect. It is this "impossibility" situation that is the Agency's basis for selecting the types of operations that should be included in the extension.

For the pump and treat operations for dissolved hydrocarbon remediation, the "impossibility" either does not exist or can be avoided. The treatment devices can be operated under RCRA Subtitle C interim status provisions and, thus, their operation need not be terminated prior to permit application, review and issuance. In regard to injection wells at this step of the remediation, the Agency has no basis to believe that the groundwater (which is already being treated) cannot be treated to contaminant levels less than the TC regulatory levels prior to reinjection. Once the groundwater is so treated, it is no longer subject to hazardous waste management standards and the reinjection wells can continue to be operated as authorized Class V wells. Thus, the Agency believes that limiting the extension to free phase recovery operations is consistent with its intent of providing relief that is focused on those operations that would otherwise be in an impossibility situation.[1] At the same time, the Agency recognizes that commenters have raised a number of legitimate concerns on the effect of the TC rule on the remediation of contaminated groundwater. The Agency is considering these concerns as it develops a response to the New York petition on petroleum cleanups.

(b) Treatment of Produced Groundwater from Free Phase Hydrocarbon Recovery. The Agency's proposal described reinjection of untreated produced groundwater from free phase hydrocarbon recovery operations. Several commenters stated that, in certain circumstances, produced groundwater from these operations is treated to some extent (although still above TC regulatory levels) prior to reinjection and that the extension should also include these treatment operations. As with comments related to dissolved phase remediation, described immediately above, administrative burden, cost, and time resources were cited.

The Agency has not included these activities in today's extension for the same reasons as cited above for dissolved phase remediation (i.e., the devices can continue to operate under interim status provisions). This treatment, therefore will not be included in the scope of the extension. However, unlike the treatment devices, the injection wells associated with these operations do face the same problems as wells where untreated groundwater is reinjected.[2] Thus, the Agency believes that the compliance for these wells should also be extended. That is, the produced groundwater from the free phase recovery will be subject to the extension at the point of reinjection regardless of whether it has been treated. This will allow continued operation of the operations without removing the treatment devices themselves from appropriate regulations.

3. Infiltration Galleries

In its proposal, the Agency recognized that reinjection of produced groundwater is sometimes effected through the use of infiltration galleries rather than injection wells. The Agency stated that it had insufficient information on the design and operation of these galleries to determine whether they should be treated differently from injection wells and specifically requested information on them. Several commenters provided information on infiltration galleries and suggested that, since infiltration galleries serve essentially the same purpose as injection wells, they should be included in the scope of the extension.

While the Agency agrees that infiltration galleries serve essentially the same purpose as injection wells, it notes that the operation of these galleries does not pose the same regulatory and statutory barriers as the operation of injection wells. As noted previously, the intent of the proposal was to address the regulatory impossibility that can be

[1] The Agency notes that injection during free phase recovery can also be distinguished from injection during dissolved phase remediation on the basis of the benefits of treating the groundwater. The Agency agrees with the industry's assertion that, during free phase recovery, there is often no real benefit to treating the groundwater prior to reinjection since the presence of a large, concentrated contaminant source (the free phase hydrocarbon) would immediately recontaminate the injected groundwater to previous levels with negligible effect on the net mass of hydrocarbon in the subsurface. This is not the case with pump and treat operations wherein the removal of hydrocarbon from the groundwater prior to reinjection ultimately will have a substantial effect on the mass of hydrocarbon in the subsurface.

[2] While it could be argued tat, like in dissolved phase pump and treat activities, the produced groundwater at these operations could be further treated to levels less that the TC regulatory levels, the Agency recognizes that such additional treatment would provide little or no real environmental benefit during the free phase recovery operations. (See discussion in footnote 1.)

encountered during free phase hydrocarbon recovery. Since operation of infiltration galleries does not pose the same "impossibility" situation as operation of injection wells, the Agency concludes that infiltration galleries should not be included in today's extension. As a result, infiltration galleries at free phase recovery operations will now become subject to the Toxicity Characteristic. (The TC compliance date for these galleries was extended until March 25, 1991 in a previous interim final rule.) A discussion of requirements for owners/operators of these units is included in section III (Implementation of TC Requirements for Infiltration Galleries) of today's notice.

The Agency points out, however, that if existing infiltration galleries can be reconfigured to meet the definition of an underground injection well (see 40 CFR 261.10) prior to the compliance date for infiltration galleries (i.e., before (October 2, 1991)), they will be subject to the compliance date extension for injection wells in today's notice. Industry representatives have indicated that this is feasible at certain facilities.

B. Existing State Oversight/New and Planned Operations

In the proposal, the Agency noted that existing free phase hydrocarbon recovery operations were typically being performed under some level of state oversight. The affected industry had advised the Agency that this oversight varied from formal orders to much less formal agreements. The industry also advised that these orders and agreements typically contained a requirement to assess the groundwater and the need for further remediation once the free phase recovery is completed. One commenter contended that deferral to state oversight is appropriate provided that the states' requirements are comparable to the RCRA program—specifically, including corrective action requirements. Other commenters, including state regulatory agencies, claimed that the current level of state oversight is sufficiently protective of human health and the environment.

For previously stated reasons, including concerns related to detrimental environmental consequences and the need to provide immediate relief in an impossibility situation, the Agency believes that current operations should be allowed to continue under the present level of state oversight. However, the Agency also believes that, within the narrow scope of today's action, it is appropriate to require more formalized state agreements for new operations that begin during the term of today's extension. Therefore, in order for new operations to be subject to the extended compliance date, they must be performed under written state agreements. This requirement will ensure that the states have evaluated the human health and environmental risks and that the operations are conducted in accordance with the states' requirements.

Also, the Agency believes that these agreements should provide for an assessment of the groundwater and the need for further remediation once the free phase recovery operation is complete. Therefore, in order to qualify for the extended compliance date, the state agreement must contain such a provision. In imposing this provision, the Agency notes that it is merely requiring what industry has advised is already typical of the state agreements.

Finally, the Agency believes that it should receive notification of new operations in order to enforce the conditions of today's delayed compliance rule, and, ultimately implement the TC at these sites. For these reasons, and since new operations subject to the extension will be conducted under written state agreements, notification will be accomplished by submitting a copy of the state agreement to the Agency. Copies should be submitted to: Characteristics Section (OS-333), U.S. Environmental Protection Agency, 401 M Street SW., Washington, DC 20460.

In differentiating between existing and new operations for purposes of qualifying for the extended effective date, the Agency reiterates that its motivation is to allow the existing operations to continue. While the additional requirements for new operations may cause delays (e.g., until written state agreements are issued), there will not be setbacks in progress of the nature that would be caused by interruption of existing operations (e.g., migration of a currently contained plume).

The Agency again notes, however, that the question of the appropriate level of state oversight of any cleanup operation to which relief from the TC rule is granted will be addressed more generally in the Agency's response to the New York Petition. Consistent with its overall philosophy in today's action, the Agency is, for the time being, adopting a relatively narrow approach. The Agency will, however, be soliciting comments on other approaches as it considers the issue in a broader context.

C. Related Issues

Subsequent to the promulgation of the TC rule, the Agency has received three petitions to defer or exclude all petroleum-contaminated media from the application of that characteristic. These petitions were submitted by the State of New York Department of Environmental Conservation, the South Dakota Department of Water & Natural Resources, and the State of Nevada. Similar comments were submitted in response to the proposal for today's final rule. Comments were also received that addressed the definition of solid waste. More specifically, it was claimed that contaminated groundwater does not meet the RCRA definition of a solid waste and that, consequently, the TC (or any other hazardous waste characteristic) is not applicable. While these comments were received in the course of today's rulemaking, the Agency believes that they are better addressed in the context of the New York, South Dakota, and Nevada petitions, which deal with the broader issues of contaminated media, rather than in the limited context of today's notice. The Agency expects to propose a response to these petitions within the next few months.

III. Implementation of TC Requirements for Infiltration Galleries

As discussed in section II.A.3 of today's notice, EPA's extension of the compliance date of the TC rule for hydrocarbon recovery operations does not apply to the return of produced groundwater through infiltration galleries. Therefore, the effect of EPA's action today is to bring these galleries under hazardous waste regulation, if they are used to manage produced groundwater that is hazardous under the Toxicity Characteristic. As discussed earlier, the Agency believes that facilities will either close or reconfigure their infiltration galleries so as to not be subject to the RCRA requirements. Specifically, if an owner or operator redesigns his reinjection operation to use wells instead of infiltration galleries, then the facility will qualify for today's extension of the TC rule compliance date. However, in the unlikely case that an owner or operator wants to continue the return of TC-hazardous groundwater through an existing infiltration gallery beyond October 2, 1991, then the unit will have to obtain interim status (or a permit modification). The following discussion describes the interim status and permitting procedures and responsibilities for an infiltration gallery

that chooses to operate beyond the compliance date.

To receive interim status, owners or operators of infiltration galleries must submit a part A permit application to EPA. (Alternatively, if the facility already has interim status, it must submit an amended part A in accordance with 40 CFR 270.70, or if the facility is permitted it must submit a permit modification in accordance with § 270.42.) Under the Toxicity Characteristic rule, facilities which managed the identified wastes were required to submit their part A applications (or revised part A applications or permit modifications) by September 25, 1990. However, on September 24, the compliance date for infiltration galleries used in hydrocarbon recovery operation was suspended until today's notice. Because these facilities may now again become subject to RCRA permitting requirements, the Agency believes that there is likely to be substantial confusion as to when the owner or operator of infiltration galleries was required to submit the part A form. With this notice, EPA is exercising its authority under § 270.10(e)(2) to extend the part A application date to October 2, 1991. The six month period allowed for submission of the part A form is the usual amount of time allowed under the RCRA permit program for newly regulated facilities.

In the preamble to the TC rule, EPA described in some detail the procedures under which existing units newly regulated by the TC rule would receive interim status, or would be added to a facility's permit through the permit modification procedures. (See 55 FR 11849.) Owner/operators of infiltration units handling TC wastes should consult this discussion for details on implementation. It should be particularly noted that infiltration galleries are land disposal units. These units will need to be in compliance with the applicable interim status standards in part 265 on the effective date. Additionally, Part B permit applications for the units will be required one year after the effective date of the rule, and the owner/operator would also be required to certify compliance with the groundwater monitoring and financial responsibility requirements by that time.

Infiltration galleries will not be required to submit notification pursuant to RCRA section 3010 under today's action. Under this Section, the Administrator may require all persons who handle hazardous wastes to notify EPA of their hazardous waste activity when the wastes are identified or listed as hazardous. Owner/operators of infiltration galleries handling TC wastes became subject to Section 3010 notification requirements as a result of the original TC rule, published on March 29, 1990, and therefore presumably they have already submitted their Section 3010 notices, where required. As a result, today's action does not require resubmission of the notice.

In summary, today's notice establishes the following schedule for infiltration galleries to comply with the TC:

Table I—Implementation Timeline for Infiltration Galleries

0 Months: Publication in the Federal Register.

6 Months:

- Owner/operators of infiltration galleries wishing to avoid entering the RCRA program cease managing newly regulated TC hazardous wastes in these units. Units that were receiving TC hazardous wastes must cease further receipt (or reconfigure) to avoid regulation under Subtitle C.
- Newly regulated facilities:
  —Submit Part A permit application.
- Already regulated facilities:
  —Interim status facilities: Submit amended Part A permit application.
  —Permitted TSDFs: Submit Class 1 permit modification.

12 Months:

- Already regulated facilities:
  —Permitted TSDFs: Submit Class 2 or 3 permit modifications. (Note: EPA is not aware of any infiltration galleries currently holding RCRA Part B permits; assuming that this is the case, all permit modification submitted under this requirement would fall into Class 3.)

18 Months:

- Newly regulated infiltration galleries: Submit Part B permit application and certify to EPA compliance with ground water monitoring and financial assurance requirements. Interim status terminates for units for which Part B permit application was not submitted and certifications were not made by this date.

IV. Effective date

The effective date of the Toxicity Characteristic rule was September 25, 1990. The compliance date was suspended until March 25, 1991 for the operations described in today's notice. Today's additional extension is effective on March 25, 1991. The Hazardous and Solid Waste Amendments of 1984 amended Section 3010 of RCRA to allow rules to become effective in less than six months when the regulated community does not need the six-month period to come into compliance. Because this rule extends a delayed compliance date for the Toxicity Characteristic rule, a six-month effective date is not necessary for compliance by the regulated community. In light of the unnecessary hardship and expense that would be imposed on facilities that have hydrocarbon recovery operations by an effective date six months after promulgation, EPA believes that this rule should be effective immediately upon promulgation. These reasons also provide a basis for making this rule effective immediately, for exempted facilities under the Administrative Procedures Act, pursuant to 5 U.S.C. 553(d).

V. State Authorization

A. Applicability of Rules in Authorized States

Under section 3006 of RCRA, the EPA may authorize qualified States to administer and enforce the RCRA program within the State. Following authorization, EPA retains enforcement authority under sections 3008, 3013, and 7003 of RCRA, although authorized States have primary enforcement responsibility. The standards and requirements for authorization are found in 40 CFR part 271.

Prior to HSWA, a State with final authorization administered its hazardous waste program in lieu of EPA administering the Federal program in that State. The Federal requirements no longer applied in the authorized State and EPA could not issue permits for any facilities that the State was authorized to permit. When new, more stringent Federal requirements were promulgated or enacted, the State was obliged to enact equivalent authority within specific timeframes. New Federal requirements did not take effect in an authorized State until the State adopted the requirements as State law. In contrast, under RCRA section 3006(g) (42 U.S.C. 6926(g)), new requirements and prohibitions imposed by HSWA take effect in authorized States at the same time that they take effect in nonauthorized States. EPA is directed to carry out these requirements and prohibitions in authorized States, including the issuance of permits, until the State is granted authorization to do so. While States must still adopt HSWA-related provisions as State law to retain final authorization, HSWA applies in authorized States in the interim.

B. Effect on State Authorization

EPA will implement the provisions of today's final rule in authorized States until their programs are modified to adopt the Toxicity Characteristic and the modification is approved by EPA. Implementation of today's rule beyond the date of a State's receiving final authorization for the Toxicity Characteristic depends upon actions taken by the State, as discussed below. EPA will implement the provisions of today's rule in unauthorized States.

Today's rule extends the compliance date for requirements imposed in the Toxicity Characteristic regulation (see 55 FR 11798, March 29, 1990) for certain hydrocarbon recovery operations. The Toxicity Characteristic was promulgated pursuant to a HSWA provision and must be adopted by States which intend to retain final authorization. However, today's rule provides, for a limited period of time, a less stringent standard for certain hydrocarbon recovery operations than would be imposed in the Toxicity Characteristic. In order to promote environmentally beneficial hydrocarbon operations, today's rule provides that these wastes would not be hazardous wastes under the Federal regulations until January 25, 1993 and States would not be required to mandate their management as such in order to retain their RCRA authorization. However, Section 3009 of RCRA provides that States may impose more stringent requirements than those imposed under Federal regulations. States, whether using RCRA authorities (e.g., authorities under State law for which a State has received final authorization to implement the Toxicity Characteristic provisions in lieu of EPA), or other State authorities under other statutes, may impose hazardous waste requirements on such operations, or may require other more stringent conditions upon management of these wastes.

VI. Regulatory Requirements

A. Regulatory Impact Analysis

Under Executive order 12291, EPA must determine whether a regulation is "major," and therefore subject to the requirement of a Regulatory Impact Analysis. The overall effect of today's rule is to extend the compliance date for requirements imposed by the final Toxicity Characteristic rule for certain limited hydrocarbon operations. No sampling or analysis requirements are imposed by today's rule. The net effect of today's rule is to extend cost savings to certain segments of the regulated community. Consequently, no Regulatory Impact Analysis is required.

B. Regulatory Flexibility Act

Pursuant to the Regulatory Flexibility Act, 5 U.S.C. 601–612, whenever an agency is required to publish a General Notice of Rulemaking for any proposed or final rule, it must prepare and make available for public comment a regulatory flexibility analysis that describes the impact of the rule on small entities (i.e., small businesses, small organizations, and small governmental jurisdictions). No regulatory flexibility analysis is required, however, if the head of the Agency certifies that the rule will not have a significant impact on a substantial number of small entities.

The extension of the compliance date of the Toxicity Characteristic requirements of certain limited hydrocarbon recovery activities in this rule is deregulatory in nature and thus will only provide beneficial opportunities for entities that may be affected by the rule. Accordingly, I hereby certify that this regulation will not have a significant economic impact on a substantial number of small entities. This regulation, therefore, does not require a regulatory flexibility analysis.

C. Paperwork Reduction Act

The Agency estimates that the number of facilities that will be affected annually by the reporting requirements in today's rule will not exceed six. Therefore, approval of the Office of Management and Budget under the Paperwork Reduction Act, 44 U.S.C. 3501 et seq. is not required.

List of Subjects in 40 CFR Part 261

Hazardous waste, Recycling.

Dated: March 25, 1991.

William K. Reilly,

Administrator.

For the reasons set out in the preamble, chapter I of title 40 of the CFR part 261 is amended as follows:

PART 261—IDENTIFICATION AND LISTING OF HAZARDOUS WASTE

1. The authority citation for part 261 continues to read as follows:

Authority: 42 U.S.C. 6905, 6912(a), 6921, 6922, and 6938.

2. Section 261.4 is amended by revising paragraph (b)(11) to read as follows:

§ 261.4 Exclusions.

* * * * *

(b) * * *

(11) Injected groundwater that is hazardous only because it exhibits the Toxicity Characteristic (Hazardous Waste Codes D018 through D043 only) in § 261.24 of this part that is reinjected through an underground injection well pursuant to free phase hydrocarbon recovery operations undertaken at petroleum refineries, petroleum marketing terminals, petroleum bulk plants, petroleum pipelines, and petroleum transportation spill sites until January 25, 1993. This extension applies to recovery operations in existence, or for which contracts have been issued, on or before March 25, 1991. For groundwater returned through infiltration galleries from such operations at petroleum refineries, marketing terminals, and bulk plants, until [insert date six months after publication]. New operations involving injection wells (beginning after March 25, 1991) will qualify for this compliance date extension (until January 25, 1993) only if: (i) Operations are performed pursuant to a written state agreement that includes a provision to assess the groundwater and the need for further remediation once the free phase recovery is completed; and

(ii) A copy of the written agreement has been submitted to: Characteristics Section (OS–333), U.S. Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460.

[FR Doc. 91–7459 Filed 4–1–91; 8:45 am]

BILLING CODE 6560–50–M

---

40 CFR Part 271

[FRL–3918–3]

Hazardous Waste Management Program: Revisions to the Authorized State of Oklahoma Program

AGENCY: Environmental Protection Agency.

ACTION: Immediate final rule.

SUMMARY: The State of Oklahoma has applied for final authorization of revisions to its hazardous waste program under the Resource Conservation and Recovery Act (RCRA). The Environmental Protection Agency (EPA) has reviewed the Oklahoma application and has made a decision, subject to public review and comment, that the Oklahoma hazardous waste program revision satisfies all of the requirements necessary to qualify for final authorization. Thus, EPA intends to approve the Oklahoma hazardous waste program revisions. The Oklahoma application for program revision is available for public review and comment.

DATES: Final authorization for Oklahoma is effective June 3, 1991 unless EPA publishes a prior **Federal**

Register action withdrawing this immediate final rule. All comments on the Oklahoma program revision application must be received by the close of business May 2, 1991.

ADDRESSES: Copies of the Oklahoma revision application are available from 8:30 a.m. to 4 p.m., Monday through Friday at the following addresses for inspection and copying: Oklahoma State Department of Health, 1000 NE. Tenth, Oklahoma City, Oklahoma 73152; U.S. EPA Region 6, Library, 12th floor, First Interstate Bank Tower at Fountain Place, 1445 Ross Avenue, Dallas, Texas 75202; and U.S. EPA Headquarters Liberty, PM 211A, 401 M. Street SW., Washington, DC 20460. Written comments referring to Docket Number OK–91–1 should be sent to the Oklahoma Project Officer, Grants and Authorization Section, RCRA Programs Branch, U.S. EPA Region 6, First Interstate Bank Tower at Fountain Place, 1445 Ross Avenue, Dallas, Texas 75202, phone (214) 655–6760.

FOR FURTHER INFORMATION CONTACT: Patricia Cupp, Grants and Authorization Section, RCRA Programs Branch, U.S. EPA Region 6, First Interstate Bank Tower at Fountain Place, 1445 Ross Avenue, Dallas, Texas 75202, phone (214) 655–6760.

SUPPLEMENTARY INFORMATION:

A. Background

States with final authorization under section 3006(b) of RCRA, 42 U.S.C. 6929(b), have a continuing obligation to maintain a hazardous waste program that is equivalent to, consistent with, and no less stringent than the Federal hazardous waste program. In addition, as an interim measure, the Hazardous and Solid Waste Amendments of 1984 (Public Law 98–616, November 8, 1984, hereinafter "HSWA") allows States to revise their programs to become substantially equivalent instead of equivalent to RCRA requirements promulgated under HSWA authority. States exercising the latter option receive "interim authorization" for the HSWA requirements under section 3006(g) of RCRA, 42 U.S.C. 6926(g), and later apply for final authorization for the HSWA requirements.

Revisions to State hazardous waste programs are necessary when Federal or State statutory or regulatory authority is modified or when certain other changes occur. Most commonly, State program revisions are necessitated by changes to EPA's regulations in 40 CFR parts 260–266 and 124 and 270.

B. Oklahoma

On December 27, 1984, EPA published a **Federal Register** (FR) notice announcing its decision to grant final authorization, initially, to Oklahoma (See 49 FR 50362). Revisions to the State program were approved on June 18, 1990 and November 27, 1990. On August 31, 1989, Oklahoma submitted a program revision application for additional program approvals. Today, Oklahoma is seeking approval of its program revision in accordance with 40 CFR 271.21(b)(3).

EPA has reviewed the Oklahoma application, and has made an immediate final decision that the Oklahoma hazardous waste program revision satisfies all of the requirements necessary to qualify for final authorization.

Consequently, EPA intends to grant final authorization for the additional program modifications to Oklahoma. The public may submit written comments on EPA's immediate final decision up until May 2, 1991. Copies of Oklahoma's application for program revision are available for inspection and copying at the locations indicated in the "Addresses" section of this notice.

Approval of the Oklahoma program revision shall become effective in 60 days unless an adverse comment pertaining to the State's revision discussed in this notice is received by the end of the comment period. If an adverse comment is received, EPA will publish either (1) a withdrawal of the immediate final decision or (2) a notice containing a response to comments which either affirms that the immediate final decision takes effect or reverse the decision.

The Oklahoma program revision application is based on changes to State regulations which were intended to make them equivalent to the analogous Federal regulations. Although the State's regulation changes included some changes based on provisions of the Hazardous and Solid Waste Amendments of 1984 (HSWA), the State is not seeking HSWA authorization with this application. EPA is not, therefore, authorizing the State's HSWA-type provisions with this notice. Consequently, EPA intends to grant final authorization to Oklahoma for only the program modifications which are described below.

The following chart lists the State rules (Rules and Regulations for Industrial Waste Management as amended January 26, 1989, effective May 11, 1989) and the referenced State laws (Oklahoma Controlled Industrial Waste Disposal Act, as amended, 63 O.S. Supp. 1988, Section 1–2001 *et. seq.*) that have been changed and that are being recognized as equivalent to the analogous Federal rules.

Federal Citation	State Analog
1. List (Phase 1) of Hazardous constituents for ground water monitoring—as published in the FR on July 9, 1987.	1. Chapter 2, Section 210.
2. Identification and Listing of hazardous waste—as published in the FR on July 10, 1987.	2. Chapter 2, Section 210.
3. List of spent pickle liquor clarification—as published in the FR on August 3, 1987.	3. Chapter 2, Section 210.
4. Development of Corrective Action programs after permitting hazardous waste land disposal facilities correction as published in the FR on September 9, 1987.	4. Chapter 2, Section 210.
5. Liability requirements for hazardous waste facilities corporate guarantee as published in the FR on November 18, 1987.	5. Chapter 2, Section 210.
6. Hazardous waste miscellaneous units—as published in the FR on December 10, 1987.	6. Chapter 2, Section 210.
7. Technical corrections; identification and listing—as published in the FR on April 22, 1988.	7. Chapter 2, Section 210.

C. Decision

I conclude that the Oklahoma application for program revision meets all of the statutory and regulatory requirements established by RCRA. Accordingly, Oklahoma is granted final authorization to operate its hazardous waste program as revised. Oklahoma now has responsibility for permitting treatment, storage, and disposal facilities within its borders and carrying out other aspects of the RCRA-program, subject to the limitation of its revised program application and previously approved authorities. Oklahoma also has primary enforcement responsibilities, although EPA retains the right to conduct inspections under section 3007 of RCRA and to take enforcement actions under sections 3008, 3013, and 7003, of RCRA.

D. Codification in part 272

EPA uses part 272 for codification of the decision to authorize the Oklahoma program and for incorporation by reference of those provisions of the Oklahoma statutes and regulations that EPA will enforce under sections 3008, 3013, and 7003 of RCRA. Subsequently, EPA will be amending part 272, subpart LL, under a separate notice.

Compliance With Executive Order 12291

The Office of Management and Budget has exempted this rule from the requirements of section 3 of Executive Order 12291.

Certification Under the Regulatory Flexibility Act

Pursuant to the provisions of 4 U.S.C. 605(b), I hereby certify that this authorization will not have a significant economic impact on a substantial number of small entities. This authorization effectively suspends the applicability of certain Federal regulations in favor of the Oklahoma program, thereby eliminating duplicative requirements for handlers of hazardous waste in the State. It does not impose any new burdens on small entities. This rule, therefore, does not require a regulatory flexibility analysis.

List of Subjects in 40 CFR part 272

Administrative practice and procedure, Confidential business information, Hazardous materials transportation, Hazardous Waste, Indian lands, Intergovernmental relations, Penalties, Reporting and recordkeeping requirements, Water pollution control, Water supply.

Authority: This notice is issued under the authority of sections 2002(a), 3006 and 7004(b) of the Solid Waste Disposal Act as amended 42 U.S.C. 6912(a), 6926, and 6974(b).

Dated: March 22, 1991.

Robert E. Layton Jr.,

Regional Administrator.

[FR Doc. 91-7588 Filed 4-1-91; 8:45 am]

BILLING CODE 6560-50-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

43 CFR Public Land Order 6839

[AK-932-4214-10; F-81469, F-81490, F-026976]

Modification of Public Land Order No. 2344; as Amended; and Withdrawal of Public Lands; Alaska

AGENCY: Bureau of Land Management, Interior.

ACTION: Public Land Order.

SUMMARY: This order modifies a public land order to transfer jurisdiction of approximately 171 acres of public lands withdrawn for the Naval Arctic Research Laboratory near Barrow from the Department of the Navy to the National Oceanic and Atmospheric Administration and the U.S. Geological Survey, withdraws an additional approximately 45 acres of public lands for these agencies, and establishes a 20-year term for this withdrawal. The lands and minerals have been and remain withdrawn from all forms of appropriation and disposition pursuant to the terms and conditions of Public Land Order No. 2344 and/or section 102 of the Naval Petroleum Reserves Production Act of 1976 (42 U.S.C. 6502 (1988)).

EFFECTIVE DATE: April 2, 1991.

FOR FURTHER INFORMATION CONTACT: Sandra C. Thomas, BLM Alaska State Office, 222 W. 7th Avenue, No. 13, Anchorage, Alaska 99513-7599 (907) 271-3342.

By virtue of the authority vested in the Secretary of the Interior by section 204 of the Federal Land Policy and Management Act of 1976; 43 U.S.C. 1714 (1988), it is ordered as follows:

1. Public Land Order No. 2344, as amended, is hereby modified and jurisdiction of the surface estate transferred from the Department of the Navy to the National Oceanic and Atmospheric Administration and the U.S. Geological Survey as described below:

a. Geophysical Monitoring for Climatic Change Observatory for the National Oceanic and Atmospheric Administration (F-81469) located within U.S. Survey No. 5253, more particularly described as follows:

Beginning at corner No. 1, which is approximately 18 chains N.22°18' W. from the U.S. Coast and Geodetic Survey monument "Point Barrow-South Base 1945."

From corner No. 1,

South 37.88 chains to corner No. 2;

East 30.3 chains to corner No. 3;

North 37.88 chains to corner No. 4;

West 30.3 chains to corner No. 1, the place of beginning.

Excepting from the above described tract that portion that lies outside Tract 1 of Public Land Order No. 2344.

The area described contains approximately 85 acres.

b. Geomagnetic Observatory for the U.S. Geological Survey (F-81490) located within U.S. Survey No. 5253, more particularly described as:

Beginning at U.S. Coast and Geodetic Survey monument "Point Barrow-South Base 1945;" thence West, approximately 500 feet, along line 10-11 of Lot 4, identical with line 9-1 of lot 3 of U.S. Survey No. 5253, to a point located on the western boundary of National Oceanic and Atmospheric Administration's Geophysical Monitoring for Climatic Change Observatory, as described in paragraph 1a of this order; thence north approximately 500 feet along the western boundary of the Geophysical Monitoring for Climatic Change Observatory to Corner No. 1, the true point of beginning.

From Corner No. 1, by metes and bounds,

West 2,000 feet, to corner No. 2;

South 2,200 feet, to corner No. 3;

East 2,000 feet, to a point located on a line which would be the southerly extension of the western boundary of the National Oceanic and Atmospheric Administration's Geophysical Monitoring for Climatic Change Observatory, to Corner No. 4;

North 2,200 feet, along the extension of the western boundary of the Geophysical Monitoring for Climatic Change Observatory and the western boundary of the Geophysical Monitoring for Climatic Change Observatory to Corner No. 1, the true point of beginning.

Excepting from the above described tract that portion that lies outside Tract 1 of Public Land Order No. 2344.

The area described contains approximately 86 acres.

The areas described aggregate approximately 171 acres.

2. Subject to valid existing rights, the land excepted from the tract described in paragraph 1a above, containing approximately 30 acres, is withdrawn for the National Oceanic and Atmospheric Administration's Geophysical Monitoring for Climatic Change Observatory and the land excepted from the tract described in paragraph 1b above, containing approximately 15 acres, is withdrawn for the U.S. Geological Survey's Geomagnetic Observatory. The areas described aggregate approximately 45 acres.

3. The lands described in paragraphs 1 and 2 above continue to be withdrawn from all forms of appropriation and disposition under the public land and mineral laws pursuant to the terms and conditions of Public Land Order No. 2344 and/or section 102 of the Naval Petroleum Reserves Production Act of, 1976 (42 U.S.C. 6502 (1988)).

4. The withdrawal described in paragraphs 1 and 2 of this order will expire 20 years from the effective date of this order unless, as a result of a review conducted before the expiration date pursuant to section 204(f) of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1714(f) (1988), the Secretary determines that the withdrawal shall be extended.

Dave O'Neal,

Assistant Secretary of the Interior.

[FR Doc. 91-7655 Filed 4-1-91; 8:45 am]

BILLING CODE 4310-JA-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 1 and 63

[Gen. Docket No. 88-387; FCC 91-44]

Common Carrier Services; Domestic, Non-Dominant, Facilities-Based Common Carriers

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: To ensure full compliance with federally mandated environmental laws, the Commission is issuing this Second Report and Order to subject non-dominant, facilities-based domestic common carriers to the same environmental processing requirements that are applicable to other carriers and all other Commission applicants and licensees.

EFFECTIVE DATE: May 2, 1991.

FOR FURTHER INFORMATION CONTACT: A. Holly Berland, Office of General Counsel (202) 254–6530.

SUPPLEMENTARY INFORMATION: The following collection of information contained in the rule amendments has been submitted to, and approved by, the Office of Management and Budget under section 304(h) of the Paperwork Reduction Act.

OMB number: 3060–0448.

This is a summary of the Commission's Second Report and Order, adopted February 7, 1991, released March 27, 1991, FCC 91–44. The full text of the Second Report and Order is available for inspection and copying during normal business hours in the FCC Docket Branch (room 230), 1919 M Street NW., Washington, DC. The full text of this Second Report and Order may also be purchased from the Commission's contractor, Downtown Copying Center, 1114 21st Street NW., Washington, DC 20036 (202) 452–1422.

Summary of Second Report and Order

1. The Commission is amending § 63.07 of the Commission's rules to require that non-dominant common carriers submit Environmental Assessments and undergo environmental review prior to the construction or extension of telecommunications lines that may have significant environmental effects. The Commission is also amending § 1.1306 of the Commission's rules to establish a categorical exclusion from the environmental processing requirements for the installation of cable or wire lines on established corridors of prior or permitted use. Finally, the Commission is amending § 1.1312 of its rules to include a requirement that construction pursuant to § 1.1312 cease upon discovery that the facility may have a significant effect on the environment.

2. This Second Report and Order is issued under the authority contained in sections 4(i) and 303(r) of the Communications Act, as amended, 47 U.S.C. 154(i), 303(r); section 4332 of the National Environmental Policy Act, 42 U.S.C. 4332; section 470–f of the National Historic Preservation Act, 16 U.S.C. 470–f; section 1536 of the Endangered Species Act, 16 U.S.C. 1536; and section 1996 of the American Indian Religious Freedom Act, 42 U.S.C. 1996.

List of Subjects

47 CFR Part 1

Environmental impact statements.

47 CFR Part 63

Communications common carriers, Reporting and recordkeeping requirements.

Federal Communications Commission.

William F. Caton,

Acting Secretary.

Rule Changes

PART 1 [AMENDED]

Parts 1 and 63 of title 47 of the Code of Federal Regulations is amended as follows:

1. The authority citation for part 1 continues to read as follows:

Authority: Secs. 4, 303, 48 Stat. 1066, 1082, as amended: 47 U.S.C. 154, 303, Implement, 5 U.S.C., 552, unless otherwise noted.

2. Section 1.1306 is amended by revising note 1 to read as follows:

§ 1.1306 Actions which are categorically excluded from environmental processing.

* * * * *

Note 1: The provisions of § 1.1307(a) of this part requiring the preparation of EAs do not encompass the mounting of antenna(s) on an existing building or antenna tower unless § 1.1307(a)(4) of this part is applicable. Such antennas are subject to § 1.1307(b) of this part and require EAs if their construction would result in human exposure to radiofrequency radiation in excess of the applicable health and safety guidelines cited in § 1.1307(b) of this part. The provisions of §§ 1.1307 (a) and (b) of this part do not encompass the installation of aerial wire or cable over existing aerial corridors of prior or permitted use or the underground installation of wire or cable along existing underground corridors of prior or permitted use, established by the applicant or others. The use of existing buildings, towers or corridors is an environmentally desirable alternative to the construction of new facilities and is encouraged.

* * * * *

3. Section 1.1312 is amended by redesignating paragraph (d) as paragraph (e) and revising it and adding a new paragraph (d) to read as follows:

§ 1.1312 Facilities for which no preconstruction authorization is required.

* * * * *

(d) If, following the initiation of construction under this section, the licensee or applicant discovers that the proposed facility may have a significant environmental effect, it shall immediately cease construction which may have that effect, and submit the information required by § 1.1311 of this part. The Commission shall rule on that submission and complete further environmental processing (if invoked), see § 1.1308 of this part, before such construction is resumed.

(e) Paragraphs (a) through (d) of this section shall not apply to the construction of mobile stations

PART 63 [AMENDED]

4. The authority citation for part 63 continues to read as follows:

Authority: Sec. 4, 48 Stat. 1066, as amended; 47 U.S.C. 154. Interpret or apply sec. 214, 48 Stat. 1075, as amended; 47 U.S.C. 214.

5. Section 63.07 is amended by adding a new paragraph (c) to read as follows:

§ 63.07 Special procedures for non-dominant domestic common carriers.

* * * * *

(c) Non-dominant, facilities-based domestic common carriers subject to this section shall not engage in any construction or extension of lines that may have a significant effect on the environment as defined in § 1.1307 of this chapter without prior compliance with the Commission's environmental rules. See 1.1312 of this chapter.

[FR Doc. 91–7602 Filed 4–1–91; 8:45 am]

BILLING CODE 6712–01–M

47 CFR Part 73

[MM Docket No. 89–487; RM–6855]

Radio Broadcasting Services; Randolph and Brandon, VT

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document substitutes Channel 271C3 for Channel 272A at Randolph, Vermont, and modifies the license for Station WCVR–FM to specify operation on Channel 271C3, in response to a petition filed by Stokes Communications Corporation. To accommodate this upgrade, this document substitutes Channel 268A for vacant but applied for Channel 270A at Brandon, Vermont. The coordinates for Channel 271C3 at Randolph are 43–59–30 and 72–36–18. The coordinates for Channel 268A at Brandon are 43–47–36 and 73–05–25. Canadian concurrence has been received since these sites are located within 320 kilometers (200 miles) of the U.S.-Canadian border. This

document also rejects arguments raised by Bach 'n Roll Radio of Brandon, Inc., and the Mirkwood Group, applicants for Channel 270A at Brandon, regarding the availability and suitability of a fully spaced area to accommodate a Channel 268A facility at Brandon.

EFFECTIVE DATE: May 13, 1991.

FOR FURTHER INFORMATION CONTACT: Andrew J. Rhodes, Mass Media Bureau, (202) 634–6530.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order, MM Docket No. 89–487, adopted March 20, 1991, and released March 28, 1991. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (room 230), 1919 M Street NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, Downtown Copy Center, (202) 452–1422, 1714 21st Street NW., Washington, DC 20036.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

PART 73—[AMENDED]

1. The authority citation for part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303.

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under Vermont, is amended by removing Channel 272A and adding Channel 271C3 at Randolph, and by removing Channel 270A and adding Channel 268A at Brandon.

Federal Communications Commission.

Andrew J. Rhodes,

Acting Chief, Allocations Branch, Policy and Rules Division Mass Media Bureau.

[FR Doc. 91–7650 Filed 4–1–91; 8:45 am]

BILLING CODE 6712-01-M

---

47 CFR Part 73

[MM Docket No. 88–29; RM–4941 and RM–5399; FCC 91–81]

FM Radio Broadcasting Services; Greenup, Kentucky and Athens, Ohio

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: In response to an application for review filed by Greenup County Broadcasting, Inc., licensee of Station WLGC–FM, Channel 288A, Greenup, Kentucky, the Commission reverses the staff action, which substituted Channel 289B1 for Channel 288A at Athens, Ohio, and modified the authorization of Station WXTQ–FM, Athens, accordingly, as requested by WATH, Inc., and denied Greenup County Broadcasting's proposal. *See* 54 Fed. Reg. 18885, May 3, 1989. Instead, the Commission adopts Greenup County Broadcasting's proposal, substituting Channel 289B1 for Channel 288A at Greenup, modifying the authorization of Station WLGC–FM, Greenup, accordingly, and denying WATH's proposal. *See* Supplementary Information, *infra*.

EFFECTIVE DATE: May 3, 1991.

FOR FURTHER INFORMATION CONTACT: J. Bertron Withers, Jr., Mass Media Bureau, (202) 632–7792.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Memorandum Opinion and Order, MM Docket No. 88–29, adopted February 26, 1991, and released March 11, 1991. The full text of this Commission decision is available for inspection and copying during normal business hours in FCC Dockets Branch (room 230), 1919 M Street NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, Downtown Copy Center, (202) 452–1422, 1714 21st Street NW., Washington, DC 20036.

In reviewing the staff action, the Commission found that although the staff had properly refined the methodology used in comparing proposed coverage areas in allotment requests, its finding that WATH's proposal would provide a second aural service, which served as the basis for granting that proposal, was in error because of circumstances that had changed since the staff action on reconsideration. The Commission found that the proposal of Greenup County Broadcasting would serve the greater number of additional persons, thereby better serving the public interest than would WATH's proposal. In rejecting WATH's proposal, the Commission concluded that WATH's assertion that its proposal should be preferred because it would cover a more lightly served area only mitigates the superiority of the Greenup proposal, but does not overcome that superiority. The allotment to Greenup can be made in compliance with the Commission's minimum inter-station distance separation requirements using the site located at least 4.9 kilometers (3.0 miles) north of the community at coordinates North Latitude 38–37–24 and West Longitude 82–49–42.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

PART 73 [AMENDED]

1. The authority citation for part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303.

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments is amended under Kentucky by removing Channel 288A and adding Channel 289B1 at Greenup, and under Ohio by removing Channel 289B1 and adding Channel 288A at Athens.

Federal Communications Commission.

William F. Caton,

Acting Secretary.

[FR Doc. 91–7727 Filed 4–1–91; 8:45 am]

BILLING CODE 6712-01-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 285

[Docket No. 70355–7127]

Atlantic Tuna Fisheries

AGENCY: National Marine Fisheries Service (NMFS), NOAA, Commerce.

ACTION: Notice of closure.

SUMMARY: NMFS issues this notice to close the fishery for Altantic bluefin tuna conducted by longline vessels permitted in the Incidental Catch category and operating in the Regulatory Area south of 36°00′ N. latitude. Closure of this segment of the fishery is necessary because landings data indicate that the annual quota of Atlantic bluefin tuna allocated for this area will be attained by the effective date. The intent of this action is to prevent overharvest of the quota established for this fishery.

EFFECTIVE DATE: The closure is effective from 0001 hours local time April 8, 1991, through December 31, 1991.

FOR FURTHER INFORMATION CONTACT: Kathi L. Rodrigues, 508–281–9324.

SUPPLEMENTARY INFORMATION: Regulations promulgated under the authority of the Atlantic Tunas Convention Act (16 U.S.C. 971–971h) regulating the harvest of Atlantic bluefin tuna by persons and vessels subject to U.S. jurisdiction were published in the **Federal Register** on October 25, 1985 (50 FR 43396).

Section 285.22(f)(1) of the regulations at 50 CFR part 285 provides for an

annual quota of 145 st (132 mt) of Atlantic bluefin tuna to be harvested from the Regulatory Area by longline vessels permitted in the Incidental Catch category. Of this amount, no more than 115 st (104 mt) may be landed in the area south of 36°00′ N. latitude. The Assistant Administrator for Fisheries, NOAA, is authorized under § 285.20(b)(1) to monitor the catch and landing statistics and, on the basis of these statistics, to project a date when the total catch of Atlantic bluefin tuna will equal any quota under § 285.22. The Assistant Administrator is further authorized under § 285.20(b)(1) to prohibit the fishing for, or retention of, Atlantic bluefin tuna by those fishing in the category subject to the quota when the catch of tuna equals the quota established under § 285.22. The Assistant Administrator has determined, based on the reported catch, that the annual quota of Atlantic bluefin tuna for longline vessels fishing in the area south of 36°00′ N. latitude will be attained by the effective date of this notice. Fishing for, and retention of, any Atlantic bluefin tuna harvested under § 285.22(f)(1) must cease at 0001 hours local time on April 8, 1991.

Longline vessels permitted in the Incidental Catch category fishing north of 36°00′ N. latitude may continue to retain Atlantic bluefin tuna until the total annual quota of 145 st (132 mt) is achieved.

Other Matters

Notice of this action will be mailed to all Atlantic bluefin tuna dealers and to vessel owners permitted in the Incidental Catch category. This action is taken under the authority of 50 CFR 285.20, and is taken in compliance with E.O. 12291.

List of Subjects in 50 CFR Part 285

Fisheries, Penalties, Reporting and recordkeeping requirements, Treaties.

Authority: 16 U.S.C. 971 *et seq.*

Dated: March 27, 1991.

David S. Crestin,

Acting Director, Office of Fisheries Conservation and Management, National Marine Fisheries Service.

[FR Doc. 91-7607 Filed 4-1-91; 8:45 am]

BILLING CODE 3510-22-M

---

50 CFR Part 644

[Docket No. 900823-1033]

RIN 0648-AC87

Atlantic Billfishes

AGENCY: National Marine Fisheries Service (NMFS), NOAA, Commerce.

ACTION: Final rule.

SUMMARY: NOAA issues this final rule to amend the regulations implementing the Fishery Management Plan for Atlantic Billfishes (FMP). This rule (1) Broadens the definition of "dealer" to include any person, other than the consumer, who receives a billfish by way of purchase, barter, or trade, (2) requires documentation of origin for related species of billfish for the limited purpose of ascertaining the eligibility for sale of a billfish possessed by a dealer or processor, (3) clarifies the scope of the regulations in the broadest terms consistent with the FMP, (4) prohibits the removal at sea of the head, fins, or bill from a billfish, and (5) prohibits offering for sale a billfish harvested from its management unit. The intended effects of this rule are to ensure that a billfish from its management unit is not purchased, bartered, traded, or sold in any state, to express clearly the intent of the FMP, to enhance enforceability of the regulations, and to clarify the regulations.

EFFECTIVE DATE: May 2, 1991.

FOR FURTHER INFORMATION CONTACT: Rodney C. Dalton, 813-893-3722.

SUPPLEMENTARY INFORMATION: The billfish fishery is managed under the FMP and its implementing regulations under the authority of the Magnuson Fishery Conservation and Management Act (Magnuson Act). The FMP was prepared jointly by the South Atlantic, New England, Mid-Atlantic, Gulf of Mexico, and Caribbean Fishery Management Councils (Councils). Implementing regulations are found at 50 CFR part 644. Section 644.24 of the regulations prohibits the purchase, barter, trade, or sale in any state of a billfish (i.e., white and blue marlin, sailfish, or longbill spearfish) harvested from its management unit (specified areas of the Atlantic Ocean as defined at § 644.2). In support of that prohibition, documentation that a billfish was harvested from outside its management unit is required for all billfish possessed by a seafood dealer or processor, except for a billfish landed in a Pacific state and remaining in the state of landing.

Because the four billfish species are indistinguishable from related species such as black marlin, striped marlin, and shortbill spearfish when in their market form (i.e., headed, gutted, and fins removed), it is necessary to extend the documentation of origin requirement to the related species (found exclusively or nearly exclusively in the Pacific Ocean). It is also necessary that the documentation of origin accompany both the regulated billfish species and the related species from the points of importation into the United States to their final destinations. Accordingly, the definition of "dealer" is broadened to include any person, other than the consumer, who receives billfish by way of purchase, barter, or trade.

This rule also restates the purpose and scope section of the regulations (§ 644.1); prohibits removing at sea a billfish's head, fins, and bill; and prohibits offering for sale a billfish harvested from its management unit.

The rationale for these measures was contained in the proposed rule (55 FR 39493, September 27, 1990) and is not repeated here.

Comments and Responses

Six written comments were received on the proposed rule. Comments in support of the proposed rule were received from two sportfishing clubs representing 560 and 250 members, respectively; a state biologist; the executive director of a sportfishing organization; and one individual. One individual objected to the provision of the rule that would require billfishes to be landed with head and fins intact. A response to the one critical comment is provided below.

Comment: One individual recommended that the requirement for billfishes to be landed with head and fins intact be deleted or modified to allow fish to be filleted at sea. The principal concern was the ability to maintain the quality (freshness) of the fish for later consumption.

Response: The requirement to land billfishes with the head and fins intact was proposed by NMFS law enforcement personnel as a means of enhancing enforceability of the existing minimum size limits and prohibition on sale of billfishes. Law enforcement personnel believe that allowing fish to be filleted at sea would compromise enforcement of both measures. In cases where fish are retained for personal consumption, NOAA believes that alternative procedures for maintaining product quality are available, e.g., packing the body cavity with ice and covering the carcass with a moist cloth. For these reasons, NOAA concludes that the proposed prohibition of removing at sea a billfish's head, fins, or bill should be implemented without change.

Changes From the Proposed Rule

The language of the prohibition on possessing a billfish with its head, fins, or bill removed (§ 644.7(d)) is revised to clarify that the prohibition applies at sea shoreward of the outer boundary of the

exclusive economic zone (EEZ), as stated in the management measure to which the prohibition refers.

For consistency with its related prohibition at § 644.7(f), § 644.24(a) is revised to prohibit offering for sale a billfish from its management unit.

For clarity and consistency, "Atlantic Ocean" is revised to read "Atlantic Ocean (including the Gulf of Mexico and the Caribbean Sea)" at § 644.24(b) introductory text and (b)(4).

To clarify who may sign the documentation attesting to the origin of billfish or related species and for consistency in the regulations, the phrase "dealer or seafood processor" replaces "dealer" in § 644.24(b)(4).

Classification

The Assistant Administrator for Fisheries, NOAA, determined that this rule is necessary for the conservation and management of the Atlantic billfish fishery and that it is consistent with the Magnuson Act and other applicable law.

This rule will not result in a significant change in the original environmental impact statement for the FMP and, thus, is categorically excluded from the requirement to prepare an environmental assessment by NOAA Directive 02–10.

The Under Secretary for Oceans and Atmosphere, NOAA, determined that this rule is not a "major rule" requiring the preparation of a regulatory impact analysis under E.O. 12291. This rule is not likely to result in an annual effect on the economy of $100 million or more; a major increase in costs or prices for consumers, individual industries, Federal, state, or local government agencies, or geographical regions; or a significant adverse effect on competition, employment, investment, productivity, innovation, or the ability of U.S.-based enterprises to compete with foreign-based enterprises in domestic or export markets.

The General Counsel of the Department of Commerce certified to the Small Business Administration that this rule will not have a significant economic impact on a substantial number of small entities. Accordingly, a regulatory flexibility analysis was not prepared.

In the final rule to implement the FMP, NOAA concluded that, to the maximum extent practicable, the FMP is consistent with the coastal zone management programs of the adjoining states that have coastal zone management programs. Because this rule does not directly affect the coastal zone in a manner not already fully evaluated in the FMP and covered by the earlier consistency determination, a new consistency determination is not required.

This rule does not contain policies with federalism implications sufficient to warrant preparation of a federalism assessment under E.O. 12612.

This rule revises a collection-of-information requirement subject to the Paperwork Reduction Act. This revision to the documentation of origin of billfish was approved by the Office of Management and Budget (OMB) and OMB control number 0648-0216 applies. The public reporting burden for the collection of information before revision was estimated to average 20 minutes per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. The revised collection of information does not change that estimate for the initial documentation of origin. The public reporting burden for additions to that documentation by dealers or seafood processors subsequently possessing the billfish is estimated to average 2 minutes per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments on the reporting burden estimates or any other aspect of the collection of information, including suggestions for reducing the burdens, to Edward E. Burgess, NMFS, 9450 Koger Boulevard, St. Petersburg, FL 33702; and to the Office of Information and Regulatory Affairs, OMB, Washington, DC 20503 (Attn: Paperwork Reduction Act Project 0648-0216).

List of Subjects in 50 CFR Part 644

Fisheries, Fishing, Reporting and recordkeeping requirements.

Dated: March 26, 1991.

Michael F. Tillman,

Acting Assistant Administrator for Fisheries, National Marine Fisheries Service.

For the reasons set forth in the preamble, 50 CFR part 644 is amended as follows:

PART 644—ATLANTIC BILLFISHES

1. The authority citation for part 644 continues to read as follows:

Authority: 16 U.S.C. 1801 *et seq.*

2. In § 644.1, paragraph (b) is revised to read as follows:

§ 644.1 Purpose and scope.

* * * * *

(b) This part governs conservation and management of billfish off the Atlantic, Gulf of Mexico, and Caribbean coastal states, and regulates the possession or sale in any state of a billfish harvested from its management unit.

3. In § 644.2, new definitions for Dealer, Related species, and EEZ are added in alphabetical order to read as follows:

§ 644.2 Definitions.

* * * * *

Dealer, for the purposes of this part 644, means a person, other than the consumer, who receives fish by way of purchase, barter, or trade.

* * * * *

EEZ, for the purposes of this part 644, means the EEZ, as defined at 50 CFR 620.2, in the Atlantic Ocean including the Gulf of Mexico and the Caribbean Sea.

* * * * *

Related species means black marlin, *Makaira indica;* striped marlin, *Tetrapturus audax;* or shortbill spearfish, *Tetrapturus angustirostris.*

* * * * *

4. In § 644.7, paragraphs (d) through (h) are redesignated as paragraphs (e) through (i); a new paragraph (d) is added; and newly redesignated paragraphs (f) and (h) are revised to read as follows:

§ 644.7 Prohibitions.

* * * * *

(d) Possess a billfish with its head, fins, or bill removed shoreward of the outer boundary of the EEZ or through landing, as specified in § 644.21(c).

* * * * *

(f) Purchase, barter, trade, sell, or offer for sale a billfish harvested from its management unit, as specified in § 644.24(a).

* * * * *

(h) As a dealer or seafood processor, possess a billfish or related species without the documentation specified in § 644.24(b), or with incomplete or falsified documentation.

* * * * *

5. In § 644.21, paragraph (c) is redesignated as paragraph (d); paragraph (a) introductory text and paragraph (b) are revised; and a new paragraph (c) is added to read as follows:

§ 644.21 Size limits.

(a) The following minimum size limits, expressed in terms of lower jaw-fork length (LJFL), apply for the possession of

billfish shoreward of the outer boundary of the EEZ, regardless of where caught:

* * * * *

(b) A billfish under the minimum size limit caught shoreward of the outer boundary of the EEZ must be released by cutting the line near the hook without removing the fish from the water.

(c) A billfish possessed aboard a fishing vessel shoreward of the outer boundary of the EEZ must have its head, fins, and bill intact, and a billfish landed from a fishing vessel in an Atlantic, Gulf of Mexico, or Caribbean coastal state must have its head, fins, and bill intact through landing. Such billfish may be eviscerated but must otherwise be maintained in a whole condition.

* * * * *

6. Section 644.24 is revised to read as follows:

§ 644.24 Restrictons on sale.

(a) A billfish harvested from its management unit may not be purchased, bartered, traded, sold, or offered for sale in any state.

(b) Except for a billfish or related species landed in a Pacific state and remaining in the state of landing, a billfish or related species that is possessed by a dealer or seafood processor will be presumed to be a billfish harvested from its management unit unless it is accompanied by documentation that the billfish was harvested from outside its management unit or the related species was harvested from other than the Atlantic Ocean (including the Gulf of Mexico and the Caribbean Sea). Such documentation must contain:

(1) The information specified in 50 CFR part 246 for marking containers or packages of fish or wildlife that are imported, exported, or transported in interstate commerce.

(2) The name and home port of the vessel harvesting the billfish or related species;

(3) The port and date of offloading from the vessel harvesting the billfish or related species; and

(4) A statement signed by the dealer or seafood processor attesting that each billfish was harvested from an area other than its management unit and each related species was harvested from other than the Atlantic Ocean (including the Gulf of Mexico and the Caribbean Sea).

[FR Doc. 91-7608 Filed 4-1-91; 8:45 am]

BILLING CODE 3510-22-M

50 CFR Part 672

[Docket No. 910224-1075]

RIN 0648-AE14

Groundfish of the Gulf of Alaska

AGENCY: National Marine Fisheries Service (NMFS), NOAA, Commerce.

ACTION: Final rule.

SUMMARY: NOAA issues a final rule that delays the start of the directed fishing season for sablefish with hook-and-line gear in the Gulf of Alaska (GOA) until May 15. This action is necessary to reduce the amount of Pacific halibut that would otherwise occur in this fishery. It is intended to allow fuller utilization of the sablefish optimum yield, thereby promoting the goals and objectives of the Fishery Management Plan for Groundfish of the Gulf of Alaska.

DATES: Effective April 1, 1991.

ADDRESSES: Copies of the environmental assessment/regulatory impact review/final regulatory flexibility analysis (EA/RIR/FRFA) may be obtained by writing to Steven Pennoyer, Director, Alaska Region, National Marine Fisheries Service, P.O. Box 21668, Juneau, Alaska 99802.

FOR FUTHER INFORMATION CONTACT: Ronald J. Berg, (Fishery Management Biologist, NMFS), 907-586-7230.

SUPPLEMENTARY INFORMATION:

Background

The domestic and foreign groundfish fisheries in the exclusive economic zone of the GOA are managed by the Secretary of Commerce (Secretary) under the Fishery Management Plan for Groundfish of the Gulf of Alaska (FMP). The FMP was prepared by the North Pacific Fishery Management Council (Council) under the Magnuson Fishery Conservation and Management Act (Magnuson Act) and is implemented by regulations for the foreign fishery at 50 CFR part 611 and for the U.S. fishery at 50 CFR part 672.

At its December 3-7, 1990, meeting, the Council recommended that a regulatory amendment be implemented that would change the season for the hook-and-line directed sablefish fishery by delaying the starting date until May 15 instead of April 1. The Secretary prepared a proposed rule which would do this, and published it in the **Federal Register** (56 FR 8317, February 28, 1991). The purpose of the proposed season delay would be to reduce halibut bycatch, which otherwise occurs at high rates in the sablefish hook-and-line fishery. A detailed explanation is provided in the proposed rule.

Comments were invited on the proposed rule until March 15, 1991. No comments were received.

The final rule is being issued without any change from the proposed rule.

Classification

The Assistant Administrator for Fisheries, NOAA (Assistant Adminstrator), has determined that this rule is necessary for the conservation and management of the groundfish fisheries off Alaska and that it is consistent with the Magnuson Act and other applicable law.

The Alaska Region, NMFS, prepared an environmental assessment for this rule and the Assistant Administrator concluded that no significant impact on the environment will occur as a result of this rule. You may obtain a copy of the EA/RIR/FRFA from the Regional Director at the above address.

The Assistant Administrator determined that this rule is not a "major rule" requiring a regulatory impact analysis under Executive Order 12291. This final rule is not likely to result in an annual effect on the economy of $100 million or more; a major increase in costs or prices for consumers, individual industries, Federal, state, or local government agencies, or geographic regions; or a significant adverse effect on competition, employment, investment, productivity, innovation or the ability of U.S.-based enterprises to compete with foreign-based enterprises in domestic or export markets. This determination is based on the socioeconomic impacts discusssed in the EA/RIR/FRFA prepared by the Alaska Region, NMFS. It is expected that more sablefish will be harvested in the GOA by hook-or-line in 1991 than in 1990 as a result of this rulemaking. A harvest shortfall of 1,497 metric tons of sablefish occurred in the hook-and-line fishery in the Western Regulatory Area in 1990. Expressed in pounds and using a recovery rate of 0.63 for eastern cut product, the resulting shortfall was 2.1 million pounds, valued at roughly $2.8 million in gross exvessel revenue. This shortfall was roughly 50% of the total allowable catch (TAC) of sablefish for this gear type in this area of the GOA and occurred largely because the prohibited species catch (PSC) limit for halibut for the hook-and-line fishery was attained prematurely. The delay in the beginning of the sablefish hook-and-line fishery in the Gulf of Alaska that is required by this rulemaking will force sablefish fishing to occur when halibut bycatch is reduced due to migration of additional halibut to shallower waters.

Therefore, a larger proportion of the TAC is likely to be harvested.

The Alaska Region, NMFS, prepared a final regulatory flexibility analysis as part of the regulatory impact review, which concludes that this rule would have significant positive effects on small entities. A summary of this determination was published in the proposed rule at 56 FR 8317 (February 28, 1991).

This rule does not contain a collection of information requirement subject to the Paperwork Reduction Act.

NOAA has determined that this rule will be implemented in a manner that is consistent to the maximum extent practicable with the approved coastal management program of the State of Alaska. This determination has been submitted for review by the responsible State agencies under section 307 of the Coastal Zone Management Act.

This rule does not contain policies with federalism implications sufficient to warrant preparation of a Federalism Assessment under Executive Order 12612.

This rule must be effective April 1, 1991, to achieve an orderly prosecution of the hook-and-line fishery in the Gulf of Alaska and to derive meaningful conservation benefits. Therefore, the Assistant Administrator finds for good cause that it is contrary to the public interest to delay for 30 days the effective date of this rule under section 553(d) of the Administrative Procedure Act.

List of Subjects in 50 CFR Part 672

Fisheries.

Dated: March 27, 1991.

Samuel W. McKeen,

Acting Assistant Administrator for Fisheries, National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR part 672 is amended as follows:

PART 672—GROUNDFISH OF THE GULF OF ALASKA

1. The authority of citation for 50 CFR part 672 continues to read as follows:

Authority: 16 U.S.C. 1801 *et seq.*

2. In § 672.23, paragraph (c) is revised to read as follows:

§ 672.23 Seasons.

* * * * *

(c) Directed fishing for sablefish with hook-and-line gear in the regulatory areas and districts of the Gulf of Alaska is authorized from May 15 through December 31, subject to the other provisions of this part.

* * * * *

[FR Doc. 91-7605 Filed 4-1-91; 8:45 am]

BILLING CODE 3510-22-M

Proposed Rules

Federal Register
Vol. 56, No. 63
Tuesday, April 2, 1991

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Federal Grain Inspection Service

7 CFR Parts 800 and 810

RIN 0580-AA10

United States Standards for Sorghum

AGENCY: Federal Grain Inspection Service, USDA.

ACTION: Proposed rule.

SUMMARY: The Federal Grain Inspection Service (FGIS) is proposing to amend the United States Standards for Sorghum by (1) separating the grading factor "broken kernels, foreign material, and other grains" (BNFM) into two factors "broken kernels" (BN) and "foreign material" (FM); (2) reducing the amount of Brown sorghum allowed in Yellow sorghum; (3) modifying the classification terminology for the classes Yellow and Brown sorghum; and (4) revising the definitions for all classes of sorghum. Further, to reflect more accurately the actual levels of dockage (DKG) found in sorghum, FGIS is also proposing to amend the General Provisions of the Official U.S. Standards for Grain to require the reporting of sorghum dockage to the nearest tenth of a percent.

DATES: Comments must be submitted on or before June 3, 1991.

ADDRESSES: Written comments must be submitted to Paul D. Marsden, Federal Grain Inspection Service, USDA, Room 0628 South Building, Box 96454, Washington, DC, 20090-6454; telemail users may respond to [IRSTAFF/FGIS/USDA] telemail; telex users may respond to Allen A. Atwood, TLX: 760351,ANS: FGIS UC; and telecopy users may send responses to the automatic telecopier machine at (202) 447-4628.

All comments received will be made available for public inspection at room 0628 South Building, 1400 Independence Avenue SW., Washington, DC, during regular business hours (7 CFR 1.27(b)).

FOR FURTHER INFORMATION CONTACT: Allen A. Atwood, address as above, telephone (202) 475-3428.

SUPPLEMENTARY INFORMATION:

Executive Order 12291

This proposed rule has been issued in conformance with Executive Order 12291 and Departmental Regulation 1512-1. This action has been classified as nonmajor because it does not meet the criteria for a major regulation established in the Order.

Regulatory Flexibility Act Certification

John C. Foltz, Administrator, FGIS, has determined that this proposed rule will not have a significant economic impact on a substantial number of small entities because those persons that apply the standards and most users of the inspection service do not meet the requirements for small entities as defined in the Regulatory Flexibility Act (5 U.S.C. 610 *et seq.*). Further, the standards are applied equally to all entities.

Information Collection and Recordkeeping Requirements

In compliance with the Paperwork Reduction Act of 1980 (44 U.S.C. Chapter 35), the collection and recordkeeping requirements contained in this rule are included under control number 0580-0013 now being reviewed by the Office of Management and Budget (OMB). Comments concerning these requirements should be directed to the Office of Information and Regulatory Affairs of OMB, Attention: Desk Officer for the Department of Agriculture, room 3201, NEOB, Washington, DC 20503.

Background

During the early 1980's, the United States' marketshare of the world grain trade declined. Several reasons have been cited for the decline, including global recession, the strong U.S. dollar, high price-support levels, increased competition, and the quality of U.S. grain. While it is generally agreed that factors other than grain quality were largely responsible for the decline, various members of the U.S. grain industry, as well as Congress, have focused attention on the criticism directed toward the quality of U.S. grain marketed for international trade.

In 1985/1986, the U.S. grain industry held a series of grain quality workshops (GQW) to discuss grain quality. Discussions during the GQW culminated with a published consensus report entitled "Commitment To Quality." The report, representing the thoughts of more than 75 grain-trade and producer leaders, contains specific proposals and recommendations intended to improve grain quality. This report includes two recommended changes to the sorghum standards. The first recommends a reduction in the amount of Brown sorghum allowed in Yellow sorghum from 10.0 percent to 3.0 percent. The second recommends the following separation and reduction in the combined limits for broken kernels (BN) and foreign material (FM):

[In percent]

Grade	Current BNFM	Proposed BN	Proposed FM
No. 1	4.0	2.0	1.0
No. 2	8.0	4.0	2.0
No. 3	12.0	6.0	4.0
No. 4	15.0	8.0	6.0

The report also states that the "limits on broken kernels, foreign material, and 'brown' sorghum kernels should reflect more accurately the description and levels actually found in yellow sorghum"

BN and FM

The GQW report coincided with Congressional passage of the Grain Quality Improvement Act of 1986 (GQIA). The GQIA amended the USGSA to prohibit the recombination of dockage and foreign material to grain. FGIS published a final rule in the June 30, 1987, **Federal Register** (52 FR 24432), which, effective July 30, 1987, amended the sorghum standards to include a definition for the individual components of the factor BNFM. The factor BNFM was retained as a grade determining factor under the Official U.S. Standards for Grain. Further, the regulations were amended to require the reporting of individual component results on each official certificate for grade representing nonexport inspections of sorghum. An objective of this provision was to develop a database for analyzing the implications of establishing separate grade limits for these individual components. In order to assess the impact of establishing separate grade

limits for these components on the export market, the June 30, 1987, **Federal Register** publication also announced that BNFM component results would be placed on the inspection log for export shipments.

FGIS has randomly collected the domestic BNFM components data through its Grain Inspection Monitoring System (GIMS), an automated information system employed by FGIS to monitor the grading accuracy of official inspection personnel. FGIS is using its Export Grain Information System (EGIS) to collect export data concerning sorghum BN and FM. The data in EGIS represents the weighted or mathematical factor averages for each export shipment. Further, FGIS and the Economic Research Service (ERS) have compiled and evaluated the data to determine the actual levels of BNFM found in the marketplace and to assess the market and economic impact of establishing individual BN and FM grade limits.

Since August 3, 1987, FGIS has collected sorghum BN and FM data through the GIMS and the EGIS. FGIS and ERS compiled and evaluated data from August 3, 1987, to December 14, 1988, to determine the actual levels of BNFM found in the marketplace and to assess the market and economic impact of establishing individual BN and FM grade limits.

The data show that sorghum marketed in the United States for domestic and foreign use averages 5.3 and 5.6 percent BNFM, respectively. Compositionally, sorghum intended for domestic use averages 4.1 percent BN and 1.3 percent FM (combined BN and FM does not equal 5.3 percent due to rounding). Sorghum intended for export averages 4.1 percent BN and 1.5 percent FM.

Based on the current 8.0 percent BNFM limit for U.S. No. 2, 100 percent of the export lots and 94.4 percent of the domestic lots inspected during the prescribed timeframe graded, basis BNFM, U.S. No. 2 or better. Consequently, to assess the market and economic impact of establishing separate grade limits for the individual BNFM components, FGIS and ERS focused their attention on the recommended BN and FM limits for U.S. No. 2 sorghum. The GQW initially was of the view that 4.0 percent BN limit, if considered independently, would reduce the number of export and domestic lots receiving the U.S. No. 2 or better grade designation by 50.4 and 40.0 percent, respectively. Similarly, the GQW proposed 2.0 percent FM limit would reduce the number of export lots grading U.S. No. 2 or better by 11.3 percent and domestic lots by 7.0 percent.

The data illustrate that the BN limit has the greatest impact. However, to assess the actual impact of separating and reducing the combined limits for BN and FM, the combined effects of the individual components must be considered. Combined, the recommended limits would reduce the number of export and domestic lots receiving the U.S. No. 2 or better grade designation by 55 and 46.9 percent, respectively.

The potential economic impact of this recommendation was determined by ERS. They concluded that the estimated cost of separating BNFM into two grading factors, BN and FM, would range from $5.1 to $21.7 million, depending on how industry responds to such a change. The projected cost of $21.7 million would be realized only if industry elects to accept a reduction in grade rather than alter its sorghum handling practices to meet the higher quality standard. Due to the cleaning and/or blending options available to the industry, the ERS analysts suggest that the cost will more likely fall in the range of $5.1 to $11.0 million.

FGIS addressed the GQW on August 11, 1989, to apprise the participants of the workshop on the status of FGIS' sorghum standards review. During the session, FGIS discussed the changes being considered (i.e., BN/FM, dockage, classification terminology, and amount of brown sorghum allowed in yellow sorghum), the rationale for them, and the potential market and economic consequences of the proposals. With the exception of the BNFM recommendation, the GQW concurred with the proposed changes to the U.S. Standards for Sorghum. The GQW deferred the BNFM issue to provide the participants an opportunity to discuss and debate the impact of the BN and FM recommendation in greater detail. However, during subsequent meetings, the GQW did not reach agreement on the issue of recommending limits for BN and FM.

While it is important to consider market and economic implications when examining the validity of establishing separate grading limits for BN and FM, other factors must also be considered. In addition to the impact study, FGIS also considered the role of the standards and the technological advancements that have been made with respect to the harvesting and handling of grain. The GQW recommendation is intended to dispel the buyers's perception that BNFM is essentially foreign material by providing the customer with a more precise measurement of foreign material. The proposed change should encourage sorghum producers and handlers to improve their harvesting/handling practices.

FGIS believes establishing separate grade limits for BN and FM is consistent with the congressional declaration of policy that appears in the USGSA. FGIS developed grade limits for BN and FM, taking into consideration the advancements in harvesting and handling technology and the estimated market and economic impact of such limits. FGIS believes reasonable U.S. No. 2 limits can be set at 5.0 percent for BN and 2.0 percent for FM. FGIS data suggest that these limits will result in 23 percent of the sorghum now exported as U.S. No. 2 grading as U.S. No. 3 unless changes occur in production, harvesting, and handling practices. FGIS believes the estimated impact of the proposed changes would be reduced as a result of the producers and handlers adjusting harvesting, handling, and purchasing practices.

The cumulative distribution of results indicate that 89.4 percent of the lots contain 5.0 percent BN or less. The cumulative distribution of results further indicate that 87 percent of the lots contain 2.0 percent FM or less. The two leading sorghum export port areas, Lower Mississippi River and North Texas Gulf (Galveston, Texas to Lake Charles, Louisiana), account for 76 percent of the sorghum export volume and would be largely responsible for the 23 percent impact.

Given the extent of the anticipated impact, it appears that the 5.0 percent BN limit and the 2.0 percent FM limit are realistic and reasonable. These limits are not expected to unduely burden the exporting facilities. Further, the impact should be reduced due to producers and handlers responding to the reduced grade limits by adjusting harvesting, handling, and purchasing practices.

Regarding the domestic market, revised U.S. No. 2 limits of 5.0 percent of BN and 2.0 percent for FM would result in 73.6 percent of the domestic market samples continuing to grade U.S. No. 2 or better. This impact should be further reduced due to producers and handlers responding to the reduced grade limits by adjusting harvesting, handling, and purchasing practices.

After careful analysis and review, FGIS is proposing to separate BNFM into its component parts, BN and FM, and establish grade limits as follows:

Grade	BN	FM
No. 1	3.0	1.0
No. 2	5.0	2.0
No. 3	7.0	3.0
No. 4	9.0	4.0

Further, FGIS is proposing to report dockage to the nearest tenth percent rather than increments of 1.0 percent, with fractions of a percent disregarded. This proposal will provide sorghum customers with a more accurate and precise account of the FM and dockage levels found in sorghum, thereby enabling sorghum handlers and end-users to make more informed decisions regarding storability and end-product yield and quality. Further it should encourage the producers and handlers of sorghum to utilize improved technology to deliver and maintain a higher quality product. Thus, the proposal should better serve the needs of the sorghum market, including end-users.

Brown Sorghum Limits

The GQW also recommended limiting the amount of Brown sorghum allowed in Yellow sorghum from 10.0 percent to 3.0 percent. This action was proposed due to the nutritional differences that exist between high-tannin brown sorghum and yellow sorghum. Generally, yellow sorghum is considered to have approximately 95 percent the nutritional value of corn (1, 2). Brown sorghum can cause as much as a 30 percent reduction in feed efficiency when compared to yellow sorghum, depending on the class of livestock being fed, the method of feeding, and other variables (1).

Presently, only small quantities of brown sorghum are grown in the United States and little, if any, enters into commercial marketing channels. However, some exporters of sorghum deliver the brown, high-tannin sorghum to their customers. The Grain Sorghum Promotion Federation (GSPF), the market development entity of the NGSPA, reports that delivery and utilization of such sorghum has created marketing problems. They contend that livestock feeders that have witnessed the animals' poor performance when fed the brown sorghum have become prejudiced against sorghum in general.

To regain customer confidence in sorghum, the GSPF has conducted extensive educational campaigns to explain the difference between nontannin U.S. yellow sorghum and the high-tannin brown sorghum. The GSPF supports the change in brown sorghum limits because it reinforces their position that sorghum received from the United States will have approximately 95 percent the nutritional value of corn in livestock feed.

Research has shown that the nutritional impact of feeding brown sorghum depends on the level of tannin in the grain and the percent of the diet it comprises (3). The difficulty associated with accurately quantifying the levels of tannin in brown sorghum and the variability that exists within and among brown sorghum varieties precludes FGIS from determining whether or not the 3.0 percent limit is realistic in terms of nutritional impact.

Based on estimated quantities of brown sorghum grown in the United States (approximately 2.0 percent of total production), the recommended limit is practical. The recommendation should improve buyer's confidence in the quality of U.S. sorghum. Consequently, FGIS is proposing to amend the standards in accordance with the GQW recommendation.

Class Terms

FGIS is also proposing to amend the classification terminology for the classes Yellow and Brown sorghum. The current classification system is based on the visual appearance (color) of the kernel. However, with the exception of the brown pericarp (seecoat), the pericarp colors of one class can also be observed in another. Only brown sorghum has a brown pericarp. The better distinction between the two classes is the presence of a pigmented testa (subcoat). The testa is only present in brown sorghum and contains condensed tannins. It is the condensed tannins which are believed to be responsible for the nutritional effects associate with feeding brown sorghum (1, 2). Consequently, FGIS is proposing to change the class Brown sorghum to Tannin sorghum and revise the definition to include the words "pigmented testa" and "tannin."

Due to the assortment of colors normally seen in the class Yellow sorghum, FGIS is proposing to change this class to Sorghum. Since yellow sorghum does not have a testa, the proposal also includes a revision in the definition for this class to reflect the absence of a testa. Further, as a result of these proposed changes, the definitions for the classes White sorghum and Mixed sorghum would be revised accordingly.

Cu-Sum Plan Tolerances for Sorghum

These changes further require FGIS to revise § 800.86(c)(2) of the regulations, tables 15 and 16, as published in the **Federal Register** on June 13, 1990 (55 FR 24030), to reflect the corresponding changes/additions in the established tolerances for the Cu-Sum Plan. The grade limits and breakpoints for sorghum and the breakpoints for sorghum special grades and factors would be revised accordingly.

In summary, in response to the recommendations presented by the sorghum grain industry, FGIS is proposing to revise the sorghum standards to reflect the separation of BNFM into two factors, BN and FM; reduction in the amount of brown sorghum allowed in yellow sorghum from 10.0 percent to 3.0 percent; modifications in classification terminology; and revisions in the definitions for all sorghum classes. FGIS is also proposing to report sorghum dockage to the nearest tenth percent rather than whole percents with fractions of a percent being disregarded and to revise the established tolerances for the Cu-Sum Plan.

Comments including data, views, and arguments are solicited from interested persons. Pursuant to the USGSA, upon request, such information concerning changes to the standards may be orally presented in an informal manner. Also, pursuant to the USGSA, no standards established or amendments or revocations of standards are to become effective less that 1 calendar year after promulgation unless, in the judgment of the Administrator, the public health, interest, or safety require that they become effective sooner.

References

(1) Han, D.H., L.W. Rooney, and C.F. Earp, "Tannins and Phenols of Sorghum," Cereal Food World, 29:776–779, 1984.

(2) Rooney, L.W., M.E. Blakely, F.R. Miller, and D.T. Rosenow, 1980. "Factors Affecting the Polyphenols of Sorghum and Their Development and Location in the Sorghum Kernel." Pages 25–35 in Proceedings, Symposium on Polyphenols in Cereals and Legumes, 36th Annual Meeting of the Institute of Food Technologists, St. Louis, Missouri.

(3) Fuller, H.L., Potter, D.K., and Brown, A.R. 1966, "The Feeding Value of Grain Sorghums In Relation to Their Tannin Content," Univ. of Georgia, College of Agric. Exp. Stn. Bull. N.S. 176. 14 pp.

List of Subjects in 7 CFR Parts 800 and 810

Export, Grain.

For reasons set forth in the preamble, it is proposed that 7 CFR parts 800 and 810 be amended as follows:

PART 800—GENERAL REGULATIONS

6. The authority citation for part 800 continues to read as follows:

Authority: Public Law 94–582, 90 Stat. 2867, as amended. (7 U.S.C. 71 *et seq.*)

7. In § 800.86(c)(2), tables 15 and 16 are revised to read as follows:

§ 800.86 Inspection of shiplot, unit train, and lash barge grain in single lots.

* * * * *

(c) *Inspection procedures.*

* * * * *

(2) *Tolerances.* * * *

TABLE 15—GRADE LIMITS (GL) AND BREAKPOINTS (BP) FOR SORGHUM

Grade	Minimum test weight per bushel (pounds)		Maximum Limits of—							
			Damaged kernels				Broken kernels (percent)		Foreign material (percent)	
			Heat-damaged (percent)		Total (percent)					
	GL	BP	GL	BP	GL	BP	GL	BP	GL	BP
U.S. No. 1	57.0	−0.4	0.2	0.1	2.0	1.1	3.0	0.2	1.0	0.3
U.S. No. 2	55.0	−0.4	0.5	0.4	5.0	1.8	5.0	0.3	2.0	0.4
U.S. No. 3 [1]	53.0	−0.4	1.0	0.5	10.0	2.3	7.0	0.4	3.0	0.5
U.S. No. 4	51.0	−0.4	3.0	0.8	15.0	2.8	9.0	0.4	4.0	0.6

[1] Sorghum which is distinctly discolored shall be graded not higher than U.S. No. 3.

TABLE 16—BREAKPOINTS FOR SORGHUM SPECIAL GRADES AND FACTORS

Special grade or factors	Grade Limit	Breakpoint
Class:		
Tannin	Not less than 90.0%	−1.9
Sorghum	Not less than 97.0%	−1.0
White	Not less than 98.0%	−0.9
Smutty	20 or more in 100 grams	8
Infested	Same as in § 810.107	0
Dockage	As specified by contract or load order grade.	0.3
Moisture	As specified by contract or load order grade.	0.5

* * * * *

PART 810—OFFICIAL UNITED STATES STANDARDS FOR GRAIN

1. The authority citation for part 810 continues to read as follows:

Authority: Secs. 3A and 4, United States Grain Standards Act (7 U.S.C. 75a, 76).

Subpart A—General Provisions

2. In § 810.104, the first three sentences of paragraph (b) are revised to read as follows:

§ 810.104 Percentages.

* * * * *

(b) *Recording.* The percentage of splits in soybeans, and the percentage of dockage in barley, flaxseed, and rye are reported in whole percents with fractions of a percent being disregarded. Dockage in triticale is reported in whole and half percent with a fraction less than one-half percent being disregarded. Dockage in sorghum and wheat is reported in whole and tenth percent to the nearest tenth percent. * * *

Subpart H—United States Standards for Sorghum

3. Sections 810.1402 (b) through (j) are revised to read as set forth below and paragraph (k) is removed.

§ 810.1402 Definitions of other terms.

* * * * *

(b) *Classes.* There are four classes of sorghum: Sorghum, Tannin sorghum, White sorghum, and Mixed sorghum.

(1) *Sorghum.* Sorghum which is low in tannin content due to the absence of a pigmented tests (subcoat) and contains less than 98.0 percent White sorghum and not more than 3.0 percent Tannin sorghum. The pericarp color of this class may appear white, yellow, pink, orange, red, or bronze.

(2) *Tannin sorghum.* Sorghum which is high in tannin content due to the presence of a pigmented testa (subcoat) and contains not more than 10.0 percent non-Tannin sorghum. The pericarp color of this class is usually brown, but may also be white, yellow pink, orange, red, or bronze.

(3) *White sorghum.* Sorghum which is low in tannin content due to the absence of a pigmented testa (subcoat) and contains not more than 2.0 percent sorghum of other classes. The pericarp color of this class is white or translucent and includes sorghum containing spots that, singly or in combination, cover 25.0 percent or less of the kernel.

(4) *Mixed sorghum.* Sorghum which does not meet the requirements for any of the classes Sorghum, Tannin sorghum, or White sorghum.

(c) *Damaged Kernels.* Kernels, pieces of sorghum kernels, and other grains that are badly ground damaged, badly weather damaged, diseased, frost-damaged, germ-damaged, heat-damaged, insect-bored, mold-damaged, sprout-damaged, or otherwise materially damaged.

(d) *Dockage.* All matter other than sorghum that can be removed from the original sample by use of an approved device according to procedures prescribed in FGIS instructions. Also, underdeveloped, shriveled, and small pieces of sorghum kernels removed in properly separating the material other than sorghum.

(e) *Foreign material.* All matter except sorghum, which passes over the number 6 riddle and all matter other than sorghum that remains on the top of the 5/64 triangular-hole sieve according to procedures prescribed in FGIS instructions.

(f) *Heat-damaged kernels.* Kernels, pieces of sorghum kernels, and other grains that are materially discolored and damaged by heat.

(g) *Nongrain sorghum.* Seeds of broomcorn, Johnson-grass, *Sorghum almum* Parodi, sorghum-sudangrass, and sweet sorghum (*sorgo*).

(h) *Other grains.* Barley, corn, cultivated buckwheat, einkorn, emmer, flaxseed, guar, hull-less barley, nongrain sorghum, oats, Polish wheat, popcorn, poulard wheat, rice, rye, safflower, soybeans, spelt, sunflower seed, sweet corn, triticale, wheat, and wild oats.

(i) *Pericarp.* The pericarp is the outer layers of the sorghum grain and is fused to the seedcoat.

(j) *Sieves.*

(1) *5/64 triangular-hole sieve.* A metal sieve 0.032 inch thick with equilateral triangular perforations the inscribed circles of which are 0.0781 (5/64) inch in diameter.

(2) *2½/64 round-hole sieve.* A metal sieve 0.032 inch thick with round holes 0.0391 (2½/64) inch in diameter.

4. Section 810.1403 is revised to read as follows:

§ 810.1403 Basis of determination.

Determine the factors broken kernels and foreign material on a dockage-free basis. Determine class, damaged kernels, heat-damaged kernels, and stones on the basis of the grain when free from dockage and that portion of the broken kernels and foreign material that will pass through a 5/64 triangular-hole sieve. Make determinations not specifically provided for in the general provisions on the basis of the grain as a whole except determine odor on either the basis of the grain as a whole or the grain when free from dockage and broken kernels and foreign material removed by the 5/64 triangular-hole sieve.

5. Section 810.1404 is revised to read as follows:

§ 810.1404 Grades and grade requirements for sorghum.

Grade	Minimum test weight per bushel (pounds)	Maximum limits of			
		Damaged kernels		Broken kernels (percent)	Foreign Material (percent)
		Heat damaged (percent)	Total (percent)		
U.S. No. 1	57.0	0.2	2.0	3.0	1.0
U.S. No. 2	55.0	0.5	5.0	5.0	2.0
U.S. No. 3 [1]	53.0	1.0	10.0	7.0	3.0
U.S. No. 4	51.0	3.0	15.0	9.0	4.0

[1] Sorghum which is distinctly discolored shall be graded not higher than U.S. No. 3.

U.S. Sample grade:

U.S. Sample grade is sorghum that:

(a) Does not meet the requirements for the grades U.S. No. 1, 2, 3, or 4; or

(b) Contains 8 or more stones which have an aggregate weight in excess of 0.2 percent of the sample weight, 2 or more pieces of glass, 3 or more crotalaria seeds *(Crotalaria* spp.), 2 or more castor beans *(Ricinus communis* L.), 4 or more particles of an unknown foreign substance(s) or a commonly recognized harmful or toxic substance(s), 8 or more cockleburs *(Xanthium* spp.) or similar seeds singly or in combination, 10 or more rodent pellets, bird droppings, or equivalent quantity of other animal filth per 1,000 grams of sorghum; or

(c) Has a musty, sour, or commercially objectionable foreign odor (except smut odor); or

(d) Is badly weathered, heating, or distinctly low quality.

Dated: January 10, 1991.

D.R. Galliart,

Acting Administrator.

[FR Doc. 91-7610 Filed 4-1-91; 8:45 am]

BILLING CODE 3410-EN-M

FARM CREDIT ADMINISTRATION

12 CFR Parts 607 and 618

RIN 3052-AB19

Assessments and Apportionment of Administrative Expenses; General Provisions

AGENCY: Farm Credit Administration.

ACTION: Proposed rule.

SUMMARY: The Farm Credit Administration (FCA) proposes new regulations at 12 CFR part 607, which would prescribe the method by which the assessments that are required to pay the FCA's annual administrative expenses are apportioned among and paid by the Farm Credit System (System) institutions and other entities that are required to pay such expenses.

The proposed regulations would provide an assessment basis for banks and associations that is different from the assessment basis provided for other System entities due to the functional differences between these types of institutions. Banks and associations would be assessed on the basis of average assets. Other System entities would be assessed on the basis of estimated direct expenses plus an allocated portion of indirect expenses. Non-System entities for which the FCA has statutory examination authority would be billed on a reimbursement basis for actual direct expenses incurred for examination plus an allocated portion of indirect expenses.

DATES: Written comments must be received on or before May 2, 1991.

ADDRESSES: Comments must be submitted in writing, in triplicate, to Nancy E. Lynch, Acting General Counsel, Farm Credit Administration, McLean, Virginia 22102-5090. Copies of all communications received will be available for examination by interested parties in the Office of General Counsel, Farm Credit Administration.

FOR FURTHER INFORMATION CONTACT:

Robert J. Taylor, Chief, Fiscal Operations Branch, Fiscal Resources Division, Farm Credit Administration, McLean, VA 22102-5090, (703) 883-4122, TDD (703) 833-4444,

or

Joy E. Strickland, Attorney, Office of General Counsel, Farm Credit Administration, McLean, VA 22102-5090, (703) 883-4020, TDD (703) 883-4444.

SUPPLEMENTARY INFORMATION: Section 5.15 (12 U.S.C. 2250) of the Farm Credit Act of 1971, as amended, (1971 Act) requires that prior to the first day of each fiscal year, the Farm Credit Administration (FCA) shall determine the cost of administering the 1971 Act for the subsequent fiscal year, the amount of assessments required to pay such administrative expenses, and provide for a necessary reserve. The 1971 Act further requires that such assessments be apportioned among the Farm Credit System (System) institutions on an equitable basis as determined by the FCA. Such apportioned amounts are to be assessed and collected from time to time during the fiscal year as determined necessary by the FCA. In addition, section 5.15 of the 1971 Act requires the FCA to determine the amount of assessments needed to pay the costs of supervising and examining the Federal Agricultural Mortgage Corporation (Farmer Mac) and to assess and collect such amount from Farmer Mac from time to time during the fiscal year.

The Agricultural Credit Act of 1987, Public Law 100-233, (1987 Act) amended the 1971 Act by, among other things, providing for the restructuring of the System. Under the 1987 Act, the Federal land banks (FLBs) and Federal intermediate credit banks (FICBs) were required to merge to form Farm Credit Banks (FCBs). In addition, 10 of the 12 banks for cooperatives (BCs) and the Central Bank for Cooperatives merged to become the National Bank for Cooperatives. Other significant changes resulting from the 1987 Act are the mergers of some Federal land bank associations (FLBAs) and production credit associations (PCAs) into agricultural credit associations (ACAs), the creation of Federal land credit associations (FLCAs), and the establishment of Farmer Mac and the Farm Credit System Financial Assistance Corporation. In addition, the 1987 Act increased the complexity of and the requirements applicable to the regulatory, supervisory and examination functions of the FCA.

Based on the substantial structural and statutory changes to the System as a result of the 1987 Act, the agency determined that it was necessary to review and modify, as necessary, the

procedures for assessment of institutions. The agency's review of the existing procedures suggested that they were no longer reliable or valid ways to levy assessments and could result in inequities for certain institutions. The current method of FCA assessment is based on a formula originally developed to apply to System banks and associations in existence prior to the 1987 Act. This formula allocated the annual assessments to the banks and associations in each Farm Credit district using a complex algorithm incorporating comparisons of the average share of System loans outstanding and loans made for a 13-month period preceding the issuance of the assessments for the institutions in each district. The annual assessments were then allocated to banks and associations within each district with 43.8 percent of the total assessment allocated to the associations within a district and 56.2 percent allocated to the banks within each district. Both the FLBs and the FICBs were allocated 40 percent of the banks' allocation in each district, while the BCs were allocated 20 percent. The allocation to the associations was divided equally between the PCAs and FLBAs. Although the assessment method allocated a percentage of the assessments on the basis of the associations' share of loans made and loans outstanding, the FCA did not assess associations. The full amount of annual assessments were apportioned among the FLBs FICBs, and the BCs.

Due to the mergers and other changes in the System as a result of the 1987 Act, the FCA determined that it was not equitable calculate the annual assessments based on the preceding formula. Beginning with the assessments for fiscal year 1990, the annual assessments were based on the percentages of loans made and loans outstanding that were calculated to determine the fiscal year 1989 assessments. The annual assessments are now apportioned among the FCBs, the BCs, and the FICB of Jackson. FCA has continued to allocate a percentage of the assessments to associations but has not assessed associations. However, the FCBs are provided with the percentage of the districts' assessments that are allocated to the associations. Some FCBs obtain funds from their affiliated associations to cover a portion of the FCBs' assessments according to their own formulas.

Inconsistencies among the FCBs as to whether and how they collect reimbursements from associations for the assessments they pay suggested that there was a need for direct assessment of all System institutions including associations. In addition, since 1986, there has been substantial interest expressed by some System institutions that the FCA should review and revise the assessment formula to eliminate perceived inequities. In response to these concerns, the FCA is proposing revised assessment procedures in new part 607 and is also proposing to delete 12 CFR 618.8230 which provides in general terms for FCA's current assessment procedures.

I. Proposed Assessment Procedures for System Institutions

The proposed regulations provide that the assessment for FCA's annual administrative expenses would be based on the amount of the FCA's budget for each fiscal year plus a necessary reserve as provided for in section 5.15 of the 1971 Act. In order to determine if any reserves are necessary and the amount of any such reserves, the FCA would consider the possibility of a sizable receivership, a major lawsuit, or other expenses or activities which could result in an extra-ordinary increase in its annual expenses. Annual assessments would then be equitably apportioned among the System institutions in accordance with section 5.15.

In order to apportion each assessment equitably, the FCA has considered a variety of factors and criteria. First, the FCA analyzed the amount of the agency's resources that are devoted to the various System institutions based on factors such as organization size and function, the frequency of statutorily required examinations, examination scope, and FCA regulatory and supervisory responsibilities. Based on this analysis, the agency determined that it would not be equitable to establish a fixed proportional assessment based on the consumption of FCA resources. For example, small entities and/or entities under economic and financial stress may claim a disproportionate share of the FCA's resources at a given time. In contrast, larger and/or healthier entities which may require fewer FCA resources, will often have a larger capacity for absorbing such costs. The FCA determined that it would be most equitable if these sometimes competing considerations were balanced. Finally, in considering how to arrive at an equitable apportionment, the FCA took into consideration the functional and structural differences between banks and associations as compared with the other System institutions. This analysis indicated that it was necessary to use different assessment methods for these types of institutions.

A. Assessment of Banks and Associations

Based on the foregoing considerations, the FCA proposes in § 607.3 that the assessments for FCA's annual expenses would be apportioned among banks and associations on the basis of average assets within a tiered structure establishing asset-size ranges. The same rate of assessment would be applied to all assets within each range, and the rate of assessment would decrease as asset size increases. Thus, all banks and associations would pay the same amount on assets up to a prescribed level, but larger institutions with a larger asset base would pay a lower rate on assets above the prescribed amount.

A sample annual assessment based on the table in proposed § 607.3 would be as follows:

Average asset size range (in millions)		Assessment rate	Total amount assessed
Over	To		
$0	$25	X_1	X_1
25	50	X_2	X_1+X_2
50	100	X_3	$X_1+X_2+X_3$
100	500	X_4	$X_1+X_2+X_3+X_4$
500	1000	X_5	$X_1+X_2+X_3+X_4+X_5$
1000	7000	X_6	$X_1+X_2+X_3+X_4+X_5+X_6$
7000		X_7	$X_1+X_2+X_3+X_4+X_5+X_6+X_7$

Example: XYZ bank has average assets of $500.4 million.

X_1 = .000813 therefore $25,000,000 × .000813 = $20,325.00

X_2 = .000788 therefore $25,000,000 × .000788 = $19,700.00

X_3 = .000710 therefore $50,000,000 × .000710 = $35,500.00

X_4 = .000633 therefore $400,000,000 × .000633 = $253,200.00

X_5 = .000491 therefore $400,000 × .000491 = $196.00

Total Assessment = $328,921.00

This asset-based approach, using a sliding scale, would be a fair and equitable approach in allocating the Farm Credit Administration's annual expenses for the following reasons. The asset-based assessment is an approach that recognizes economies of scale through a reduced assessment rate for institutions with greater total assets. It is a flexible approach capable of changing according to structural changes within the System. The asset-based assessment is simple and straightforward and does not involve a complicated formula or significant administrative costs. The FCA also notes that the proposed asset-based assessment is similar to the assessment formulas used by the Office of the Comptroller of the Currency and the National Credit Union Administration.

FCA considered other assessment procedures including an assessment formula based on actual costs incurred in examining an institution and a formula based on the financial condition of an institution. However, FCA considered these assessment methods to be less equitable and administratively unsuitable for the following reasons. A true direct-cost assessment would have to be a retroactive assessment determined only after the completion of examination activity for the assessment year. However, section 5.15 requires FCA to determine the annual assessment prior to the beginning of each fiscal year.

Further, a direct-cost assessment based on hourly examiner time could result in inequities based on the time required to conduct a thorough examination and the different qualification levels of FCA examiners. The FCA also considered the effect of a direct-cost assessment procedure could have on an institution experiencing financial difficulty. A financially troubled institution may require additional examination and supervisory time which could result in an assessment which could have a severe adverse impact on the already weak institution.

Another option the FCA considered was a risk-based assessment which could be computed by adding to an asset-based annual assessment an additional charge for an institution's credit quality or a charge for institutions operating under enforcement or supervisory actions. However, the FCA determined that the potential adverse impact of an assessment based on financial or operating condition could result in serious inequities. For example, a weak institution or an institution operating under an enforcement action may or may not require more FCA resources than an institution in good financial condition or one not operating under an enforcement action. Also, a weak institution or one operating under an enforcement action may be unable to pay a substantially higher assessment.

Under the proposed asset-based procedure, assessments of banks and associations would be based on the average assets of each institution. Average assets would be the sum of the average daily assets as of the last day of the quarter as reported on Call Report Schedule RC–G for each of the four quarters immediately preceding the last fiscal quarter of each fiscal year, divided by four. For example, banks and associations would be assessed for fiscal year 1992 on the basis of average daily assets reported for the quarters ending September 30, 1990, December 31, 1990, March 31, 1991, and June 30, 1991. Because a bank or association in receivership continues as an institution chartered under the 1971 Act until such time as the liquidation is complete and the charter of the bank or association is canceled (*see* 12 CFR 611.1169, 611.1176), such institutions would be assessed in the same manner as banks and associations not in receivership.

Any method of assessment of banks and associations must be flexible enough to apply in situations where new institutions are chartered. The FCA believes that the proposed asset-based assessment procedure provides the needed flexibility to be applicable in these situations. Assessments of new banks and associations created through mergers, consolidations or transfers of direct lending authority would be based on the assets of each constituent institution up to the time the new institution is chartered. From the time the new institution is chartered, the assessment would be based on the assets of the new institution. The assets of the constituent institutions and the new institution would be averaged over the four quarters immediately preceding the last fiscal quarter of the fiscal year in which the new institution was chartered. For example, an existing FLBA receives direct lending authority from an FCB, and the resultant FLCA is chartered in April of fiscal year 1991. The assessment for fiscal year 1992 would be based on the sum of the average daily assets of the FLBA as reported on Call Report Schedule RC–G filed for the quarters ending September 30, 1990, December 31, 1990, and March 31, 1991, and the average daily assets of the FLCA as reported for the quarter ending June 30, 1991, divided by four.

Assessment of new banks and associations that were not formed as a result of a merger, consolidation, or transfer of direct lending authority, but were formed prior to July 1 of the fiscal year, would be assessed based on the assets of the new institution averaged over the number of quarters of its existence through the quarter ending June 30. Therefore, an FLCA chartered in January of fiscal year 1991 would be assessed for fiscal year 1991 on the basis of the sum of its average daily assets reported for the quarters ending March 31, 1991, and June 30, 1991, divided by two. Assessment of banks and associations formed during the period July 1 through September 30 of a fiscal year that were not formed as a result of merger, consolidation, or transfer of direct lending authority would be based on the assets of the new institution for the quarter ending September 30. For example, an FLCA chartered in September of fiscal year 1991 would be assessed for fiscal year 1992 on the basis of the average daily assets reported on Schedule RC–G for the quarter ending September 30, 1991.

B. Assessment of the Federal Agricultural Mortgage Corporation

Section 5.15 of the 1971 Act requires the FCA to determine the amount of assessments that will be required to pay the costs of supervising and examining Farmer Mac and collect such assessment from Farmer Mac from time to time during the fiscal year. The proposed regulations provide that Farmer Mac would be assessed on the basis of estimated direct expenses of examination plus a proportionate share of indirect expenses.

In order to determine the cost of supervising and examining Farmer Mac for a fiscal year, the proposed regulations provide that direct expenses for the most recent full scope examination preceding each September 15 would be adjusted to reflect expected increases or decreases in FCA activity related to Farmer Mac for the next year. A full scope examination is an examination of all operational areas of an institution. This would yield the

estimated direct expenses for the examination of Farmer Mac for the ensuing fiscal year. Direct expenses are examination expenses which can be identified and attributed to an FCA function regarding a specific institution, such as Farmer Mac. Thus, the direct expenses for FCA examination activity that can be identified as having been incurred solely in the conduct of Farmer Mac activities would form the basis for the annual assessment of Farmer Mac.

FCA's indirect expenses for supervising and examining Farmer Mac would be determined on the basis of the estimated direct expenses for examining Farmer Mac as a percentage of FCA's total budgeted expenses for examination. Indirect expenses include supervisory expenses and FCA's overhead and other expenses that cannot be broken down into amounts that directly correlate to FCA's examination activity with respect to a specific institution, such as Farmer Mac. Therefore, the proposed regulation provides that the indirect costs for examining and supervising Farmer Mac would be a function of its direct expenses for examination. The combination of estimated direct expenses and indirect expenses would reflect the total estimated cost of supervising and examining Farmer Mac for a fiscal year.

Estimated direct expenses are used as the basis for the calculation of the assessment of Farmer Mac based on the continuing nature of FCA's supervisory and examination responsibility and FCA's statutory authority in section 5.15 to collect the assessment from Farmer Mac from time to time during the fiscal year. Section 8.11 of the 1971 Act provides that FCA shall examine Farmer Mac at such time as the FCA Board may determine, but not less than once each year. Therefore, FCA will incur direct and indirect examination and supervision expenses relating to Farmer Mac at least once each year. The level of such expenses will vary according to the frequency of examinations required, the complexity of those examinations and the level of supervision required. By using the direct expenses from the previous examination to estimate the cost necessary to supervise and examine Farmer Mac throughout the fiscal year, FCA can determine its assessment of Farmer Mac at the beginning of each fiscal year and collect such amount in equal quarterly installments. This proposed method of assessment would ensure that FCA is able to maintain the resources necessary to enable it to fulfill its statutory responsibilities of examination and supervision of Farmer Mac.

C. Assessment of Other System Entities

System institutions other than banks and associations are also subject to assessment of an equitable portion of FCA's annual administrative expenses and necessary reserves in accordance with section 5.15 of the 1971 Act. These System institutions would be defined as "other System entities" which would include service corporations chartered under section 4.25 of the 1971 Act, the Farm Credit System financial Assistance Corporation, and any other entities statutorily designated as Farm Credit System institutions. Farmer Mac has been included within the general definition, "other System entities", because the method of assessment proposed for these institutions is the same as the method proposed for the assessment of Farmer Mac.

Because the other System entities are few in number, have a different asset base, and often have a wide ranging impact, they require a different form of regulatory oversight than that required for banks and associations. Consequently, it is not practical to assess these entities on the basis of average assets. Therefore, the proposed regulations provide that other System entities would be assessed on the basis of estimated direct expenses plus an allocable portion of indirect expenses. Direct and indirect expenses for these institutions would be calculated in the same manner as that proposed for Farmer Mac. That is, the direct expenses for the most recent full scope examination prior to September 15 would be adjusted to reflect expected changes in FCA activity regarding an institution for the upcoming fiscal year. This would yield FCA's estimated direct expenses for examination of the institution.

In addition, a proportionate share of FCA's indirect expenses would be allocated to each institution based upon that institution's estimated direct expenses as a percentage of FCA's total budgeted expenses for examinations. Thus, the indirect expenses would include expenses of examination activity which cannot directly be identified to a specific institution and supervisory and regulatory expenses which also cannot be identified to a particular institution.

II. Notification and Payment of Assessments

Under the proposed regulations, the FCA would provide each System institution with a notice of assessment specifying the total amount of the annual assessment, the fiscal year covered by the assessment, the amounts of the installment payments and the dates on which such payments are due. For banks and associations, the notice of assessment would also include the assessment table. The notice of assessment would be the only billing from FCA.

The total annual assessment would become an obligation of the assessed entity on October 1 of each fiscal year. However, based on the flexibility provided in section 5.15 to collect annual assessments from time to time during the fiscal year, the total annual assessment would be payable in four equal quarterly installments on October 1, January 1, April 1, and July 1.

The assessment for banks and associations chartered during the period July 1 through September 30 that were not formed as a result of mergers, consolidations, or transfers of direct lending authority would be determined by the FCA prior to December 15. Such assessment would become an obligation of the institution on January 1 and would be payable in three equal installments on January 1, April 1, and July 1.

For any System institution whose charter is to be canceled, all remaining installment payments on the institution's total assessment for a fiscal year become due and payable and must be provided for prior to the cancellation of the institution's charter. The proposed regulations also provide for the payment of interest, penalties, and expenses of collection on all assessments that are determined to be delinquent.

III. Reimbursement of Other Examination Expenses

Pursuant to 12 U.S.C. 3025, the FCA is authorized and directed to examine and audit the National Consumer Cooperative Bank, doing business as the National Cooperative Bank (NCB), and receive reimbursement from the NCB for such examinations and audits. Due to the close structural relationship between the NCB and the NCB Development Corporation (NCBDC) provided for in 12 U.S.C. 3051, the FCA also examines the NCBDC as part of its examination of the NCB. The FCA has separately billed the NCBDC for the expenses associated with its examination by the FCA.

The proposed regulations define the NCB and the NCBDC as "non-System entities". Proposed § 607.8 provides that reimbursable billings for FCA examination on non-System entities would be based on actual direct expenses incurred for the examinations plus a portion of indirect expenses

allocated on the basis of direct expenses incurred as a percentage of total examination expenses of the FCA.

The amounts assessed other System entities and the reimbursements received from the non-System entities would be deducted from the total amount of assessments of banks and associations in order to ensure that banks and associations are not assessed for costs of FCA's activity with regard to these entities. The assessment of banks and associations net of amounts assessed other System entities is also necessary due to the separate assessment criteria for Farmer Mac set out in section 5.15.

List of Subjects in 12 CFR Parts 607 and 618

Accounting, Agriculture, Archives and records, Banks, banking, Claims, Credit, Finance, Government securities, Insurance, Reporting and recordkeeping requirements, Rural areas, Technical assistance.

For the reasons stated in the preamble, part 607 of chapter VI, title 12 of the Code of Federal Regulations is proposed to be added to read as follows:

PART 607—ASSESSMENTS AND APPORTIONMENT OF ADMINISTRATIVE EXPENSES

Sec.

Authority: Secs. 5.15, 5.17; 12 U.S.C. 2250, 2252, 3025.

§ 607.1 Purpose and scope.

The regulations in part 607 implement the provisions of section 5.15 of the Act relating to Farm Credit Administration assessments. The regulations prescribe the procedures for the equitable apportionment of Farm Credit Administration annual administrative expenses and necessary reserves among Farm Credit System institutions. In accordance with section 5.15 of the Act, the regulations provide for the assessment of the Farm Credit Administration's costs of supervising and examining the Federal Agricultural Mortgage Corporation. The regulations further provide for the reimbursement of expenses incurred in performing statutorily required examinations of non-Farm Credit System entities.

§ 607.2 Definitions.

For the purpose of this part, the following definitions shall apply:

(a) *Assessment* means the annual amount to be paid by each System institution to the Farm Credit Administration in accordance with section 5.15 of the Act.

(b) *Average asset balance* means:

(1) For banks and associations with four quarters of assets as of June 30 of each year, the sum of the average daily assets as of the last day of the quarter as reported on each quarterly Call Report Schedule RC–G to the Farm Credit Administration for the most recent four quarters immediately preceding each September 15, divided by four;

(2) Except as provided in paragraphs (b) (3) and (4) of this section, for banks and associations without four quarters of assets as of June 30 of each year, the sum of the average daily assets as of the last day of the quarter reported on each quarterly Call Report Schedule RC–G to the Farm Credit Administration for the quarters in which it was in existence immediately preceding September 15, divided by the number of quarters for which the Call Report Schedule RC–G was received;

(3) For banks and associations without four quarters of assets as of June 30 that were formed through mergers, consolidations, or transfers of direct lending authority, the sum of the average daily assets as of the last day of the quarter for the most recent four quarters immediately preceding September 15 as reported on each quarterly Call Report Schedule RC–G filed by the newly chartered institution and the institutions that were merged or consolidated or that received direct lending authority, divided by four;

(4) For banks and associations chartered during the period July 1 through September 30 of each year that were not formed by the merger or consolidation of existing System institutions or the transfer of direct lending authority from another System institution, the total of the average daily assets as of the last day of the quarter as reported on Call Report Schedule RC–G for the quarter ending September 30.

(c) *Direct expenses* means the actual expenses incurred by the Farm Credit Administration which are identified to the performance of examinations.

(d) *Indirect expenses* means all Farm Credit Administration expenses that are not specifically identified as direct expenses of examination;

(e) *Non-System entities* means the National Cooperative Bank and the National Cooperative Bank Development Corporation.

(f) *Notice of Assessment* means a written notice to each System institution showing the total amount assessed and owing, the fiscal year covered by the assessment, the amounts of installment payments, and the due dates for such payments. For banks and associations, the Notice of Assessment will also include the assessment table.

(g) *Other System entities* means any service corporation chartered under section 4.25 of the Act, the Farm Credit System Financial Assistance Corporation, the Federal Agricultural Mortgage Corporation, the Farm Credit Finance Corporation of Puerto Rico, and any other entity statutorily designated as a Farm Credit System institution.

(h) *System institutions* means the banks, associations, and other System entities.

§ 607.3 Assessment of banks and associations.

(a) Banks and associations will be assessed annually for funds to cover a portion of the Farm Credit Administration's administrative expenses and necessary reserves. The total amount of the annual assessment to banks and associations shall be based on the Farm Credit Administration budget for each fiscal year plus a necessary reserve amount, excluding amounts to be assessed against other System entities and reimbursements received from non-System entities.

(b) The assessment shall be apportioned among the banks and associations using the average asset balance for each bank and association. The average asset balance will be used to determine where an institution's level of assets falls within the following table. The same assessment rate will be applied to each dollar value of assets falling within each range.

Average asset size range (in millions)		Assessment rate	Total amount assessed
Over	To		
$0	$25	X_1	X_1
25	50	X_2	X_1+X_2
50	100	X_3	$X_1+X_2+X_3$
100	500	X_4	$X_1+X_2+X_3+X_4$
500	1000	X_5	$X_1+X_2+X_3+X_4+X_5$
1000	7000	X_6	$X_1+X_2+X_3+X_4+X_5+X_6$
7000		X_7	$X_1+X_2+X_3+X_4+X_5+X_6+X_7$

Example: XYZ bank has average assets of $500.4 million.

X_1 =.000813 therefore $25,000,000 × .000813 =$20,325.00

X_2 =.000788 therefore $25,000,000 × .000788 =19,700.00

X_3 =.000710 therefore $50,000,000 × .000710 =35,500.00

X_4 =.000633 therefore $400,000,000 × .000633 =253,200.00

X_5 =.000491 therefore $400,000 × .000491 =196.00

Total Assessment =$328,921.00

(c) Assessments will be adjusted annually to reflect changes in the Farm Credit Administration budget, necessary reserves, and average assets.

§ 607.4 Assessment of other System entities.

Other System entities will be assessed for estimated direct expenses plus an allocated portion of Farm Credit Administration indirect expenses. The estimate for direct expenses shall be based on the actual direct expenses incurred in the most recent examination of each entity preceding each September 15. The actual direct expense may be adjusted to reflect expected increases or decreases in planned work, budgets, and reserves, as applicable, for each fiscal year. A proportional amount of Farm Credit Administration indirect expenses will be allocated to each entity based on the estimated direct expenses related to the particular entity as a percentage of the total budgeted direct expenses of the agency for the fiscal year covered by the assessment.

§ 607.5 Notice of assessment.

(a) Except as provided in paragraph (b) of this section, prior to September 15 of each year, the Farm Credit Administration shall determine the amount of assessment to be collected from each System institution under §§ 607.3 and 607.4 of this part and shall provide each System institution with a Notice of Assessment prior to October 1 of each fiscal year. The total amount assessed each System institution in the Notice of Assessment shall be an obligation of each institution on October 1 of each fiscal year. The total amount assessed each System institution shall be payable in equal quarterly installments on October 1, January 1, April 1, and July 1 of each fiscal year.

(b) For banks and associations chartered during the period July 1 through September 30 of each year, the Farm Credit Administration shall determine the amount of assessment to be collected from each such institution prior to December 15 and shall provide the institution with a Notice of Assessment prior to January 1. The total amount of the assessment becomes an obligation of the institution on January 1 and shall be payable in three equal installments on January 1, April 1, and July 1. This paragraph shall not apply to banks and associations formed by merger, consolidation, or transfer of direct lending authority.

(c) In the event of the proposed cancellation of the charter of a System institution, the unpaid installments of the total amount of the institution's assessment shall be provided for prior to the cancellation of the charter.

§ 607.6 Payment of assessment.

(a) System institutions shall pay the amounts due as scheduled in the Farm Credit Administration Notice of Assessment. Payment shall be made either by electronic funds transfer (EFT) for credit to the Farm Credit Administration's account 78×4131 in the Department of the Treasury or by check to the Farm Credit Administration for deposit.

(b) Payments made by EFT that are not received by the close of business on the due date shall be considered delinquent in accordance with § 607.7 of this part.

(c) Payments made by check that are not received by the Farm Credit Administration before the close of business on the third workday preceding the due date shall be considered delinquent in accordance with § 607.7 of this part.

§ 607.7 Late-payment charges on assessments.

(a) Failure to timely pay any portion of the scheduled installment amount due of an institution's total assessment shall result in the full installment amount due being considered delinquent. Failure to timely pay any reimbursement amount shall result in such amount being considered delinquent.

(b) Delinquent amounts shall be charged late-payment interest at the United States Treasury Department's current value of funds rate published in the **Federal Register**. Application of the rate shall be on a simple interest basis using a 360-day year starting on the due date of the delinquent amount and continuing through the date of receipt by the Farm Credit Administration.

(c) The Farm Credit Administration shall waive the collection of interest on the delinquent amounts if such amounts are paid within 30 days of the date interest begins to accrue. The Farm Credit Administration may waive interest due on delinquent amounts upon finding no fault with the performance of the remitter.

(d) The Farm Credit Administration shall charge an amount necessary to cover the administrative costs incurred as a result of collection of any delinquent amount.

(e) The Farm Credit Administration shall charge a penalty of 6 percent on any portion of a delinquent amount that is more than 90 days past due. Such penalty shall accrue from the date the amount became delinquent.

§ 607.8 Reimbursements for services to non-System entities.

Non-System entities will be assessed for direct expenses for examination plus an allocated portion of Farm Credit Administration indirect expenses. The Farm Credit Administration shall record the direct expenses incurred in the performance of an examination of a non-System entity and the rendering of required reports of examination. The Farm Credit Administration shall add a portion of its indirect expenses to the direct expenses for an examination. Indirect expenses shall be allocated based on the ratio of actual direct expenses incurred for each such examination to the total budgeted examination expenses of the Farm Credit Administration.

§ 607.9 Reimbursable billings.

The Farm Credit Administration shall bill the amounts due for services to non-System entities each year subsequent to the issuance of their respective Reports of Examination. Amounts billed are due in full within 30 days from the date billed. If the billed amount or any portion thereof remains unpaid at close of business on the due date, the entire amount billed shall be considered delinquent in accordance with § 607.7 of this part.

§ 607.10 Overpayments to the Farm Credit Administration.

Any amounts paid to the Farm Credit Administration in excess of the total annual assessment or amounts billed for reimbursement under this part 607 shall be refunded in principal amount only.

PART 618—GENERAL PROVISIONS

1. The authority citation for part 618 continues to read as follows:

Authority: Secs. 1.5, 1.11, 1.12, 2.2, 2.4, 2.5, 2.12, 3.1, 3.7, 4.12, 4.13A, 4.25, 4.29, 5.9, 5.10, 5.17; 12 U.S.C. 2013, 2019, 2020, 2073, 2075, 2076, 2093, 2122, 2128, 2183, 2200, 2211, 2218, 2243, 2244, 2252.

Subpart F—Miscellaneous Provisions

§ 618.8230 [Removed and Reserved].

2. Subpart F is amended by removing and reserving § 618.8230.

Dated: March 27, 1991.

Curtis M. Anderson,

Secretary, Farm Credit Administration Board.

[FR Doc. 91-7617 Filed 4-1-91; 8:45 am]

BILLING CODE 6705-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

42 CFR Part 493

[HSQ-179-P]

RIN 0938-AE60

Medicare and Laboratory Certification Programs; Enforcement Procedures for Laboratories

AGENCY: Health Care Financing Administration (HCFA), HHS.

ACTION: Proposed rule.

SUMMARY: These regulations would set forth the rules for sanctions that HCFA may impose on laboratories that are found not to meet Federal requirements. These are sanctions that might be imposed instead of or before suspending, limiting, or revoking the laboratory's certificate issued under the Clinical Laboratory Improvement Act (CLIA), and cancelling the laboratory's approval to receive Medicare payment for its services.

These amendments are necessary to conform HCFA regulations to changes made in the law by the Omnibus Budget Reconciliation Act of 1987 (OBRA '87) and the 1988 amendments to section 353 of the Public Health Service Act (PHS Act). The latter are commonly referred to as "CLIA '88".

The purpose of the amendments is to ensure that functioning laboratories are capable of providing accurate and reliable test results and that the health of individuals served by the laboratory and that of the general public is not adversely affected by laboratory operations and by testing procedures that do not meet the standards set forth in other subparts of part 493 of the HCFA regulations.

DATES: To be considered, comments must be mailed or delivered to the appropriate address, as provided below, and must be received by 5 p.m. June 3, 1991.

ADDRESSES: Mail comments to the following address: Health Care Financing Administration, Department of Health and Human Services, Attention: HSQ-179-P, P.O. Box 26676, Baltimore, Maryland 21207.

If you prefer, you may deliver your comments to one of the following addresses: room 309-G, Hubert H. Humphrey Building, 200 Independence Ave SW., Washington, DC, or room 132, East High Rise Building, 6325 Security Boulevard, Baltimore, Maryland.

Due to staffing and resource limitations, we cannot accept facsimile (FAX) copies of comments. In commenting, please refer to file code HSQ-179-P. Comments received timely will be available for public inspection as they are received, beginning approximately three weeks after publication of this document, in room 309-G of the Department's offices at 200 Independence Ave., SW., Washington, DC, on Monday through Friday of each week from 8:30 a.m. to 5 p.m. (phone: 202-245-7890).

Copies: To order copies of the Federal Register containing this document, send your request to the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402-9325. Specify the date of the issue requested and enclose a check payable to the Superintendent of Documents, or enclose your Visa or Master Card number and expiration date. Credit card orders can also be placed by calling the order desk at (202) 783-3238 or by faxing to (202) 275-6802. The cost for each copy (in paper or microfiche form) is $1.50. In addition, you may view and photocopy the Federal Register document at most libraries designated as U.S. Government Depository Libraries and at many other public and academic libraries throughout the country that receive the Federal Register. Ask the order desk operator for the location of the Government Depository Library nearest to you.

FOR FURTHER INFORMATION CONTACT: Irene Gibson, (301) 966-6768.

SUPPLEMENTARY INFORMATION:

I. Background

A. Medicare Participation.

Under sections 1861(s) (14), and (15), and 1864 of the Social Security Act (the Act), laboratory services are eligible for Medicare payment only if HCFA determines that the laboratory or other health care fucility providing those services meets the conditions for coverage of its services. Section 1864 of the Act establishes the framework within which State survey agencies, under contract with HCFA, conduct Medicare surveys to determine compliance with the Federal health and safety requirements applicable to laboratories and evaluate the laboratory's overall performance in providing quality services. The States' certifications based on these surveys are evidence relied upon by HCFA in approving laboratories for Medicare payment. There are no separate requirements for Medicaid; therefore, a laboratory approved to participate in Medicare is also eligible for payment under the Medicaid program. If HCFA determines that a laboratory no longer complies with the Federal health and safety requirements, HCFA may cancel the laboratory's approval to receive Medicare payment for its services, and its eligibility to receive Medicaid payments.

Before section 1846 was added to the Act by section 4064(d) of OBRA '87, the only available sanction for a noncomplying laboratory was cancellation of its approval to receive Medicare payment for its services. Section 1846 directs the Secretary to develop and implement a range of intermediate sanctions to apply to laboratories. These sanctions must include (1) directed plans of correction; (2) civil money penalties; (3) payment for the costs of onsite monitoring by the agency responsible for conducting certification inspections; and (4) suspension of all or part of the payments to which the laboratory would otherwise be entitled for services furnished after

the effective date of sanction. The Secretary is also required to develop and implement specific procedures with respect to how and when each of the sanctions is to be imposed, and the amount of any penalties. The procedures must be designed to minimize the time lapse between identification of the violations and imposition of the sanctions, and provide for incrementally more severe penalties for repeated or incorrected deficiencies.

B. Laboratory Licenses and Certificates

Under section 353 of the PHS Act, as enacted in 1967 (commonly referred to as CLIA '67), only laboratories that were engaged in interstate commerce had to comply with the CLIA Federal licensure requirements. Furthermore, the survey process and enforcement procedures for CLIA '67 licensure were completely separate from those of the Medicare program.

The CLIA '88 amendments, enacted as Public Law 100–578, are the Congressional response to national concern over the shortcomings of CLIA '67. The primary purpose of the latest legislation is to strengthen Federal oversight of laboratories in order to ensure that test results are accurate and reliable.

The new legislation creates a national, unified enforcement mechanism that affects virtually every laboratory in the country, not just those that are involved in interstate commerce. Every laboratory subject to the statute's broad definition will now be subject to CLIA '88 requirements and, because enforcement comes under the jurisdiction of the Secretary, every laboratory will be subject to regulations promulgated by the Secretary, regardless of whether it participates in Medicare. Under CLIA '88, it is no longer necessary to have separate sets of Federal rules to implement the two statutes. Moreover, section 6141 of the Omnibus Budget Reconciliation Act of 1989 (Public Law 101–239) revoked the exemption of low-volume physician office laboratories from the CLIA certification requirements, and requires all laboratories that participate in Medicare to meet the CLIA '88 requirements. Since it is now possible to have one consolidated set of Federal requirements under a single enforcement system, it will no longer be possible for a laboratory to be sanctioned under one law, and still continue to operate under the other. Laboratories that did not engage in interstate commerce or that tested a low volume of specimens (and therefore were not subject to CLIA '67 requirements) may continue to operate under CLIA '88 on the basis of a provisional certificate until they can be inspected.

CLIA '88 grants the Secretary new and more flexible enforcement authority, including the use of intermediate sanctions and civil action to enjoin a laboratory from continuing an activity that constitutes a significant hazard to the public health. The amended law also—

- Provides for incarceration and fines for any person convicted of intentionally violating any CLIA requirement;
- Specifies administrative and judicial review procedures available to a laboratory when an intermediate sanction is imposed or its CLIA certificate is suspended, revoked, or limited; and
- Requires the Secretary to publish annually a list of all the laboratories against which a sanction has been imposed or legal action has been taken.

To safeguard against erroneous publication of the names of laboratories or individuals in annual laboratory registry publication, we will send to the applicable HCFA regional office before publication its portion of the laboratory registry for verification of information. This procedure would prevent the serious injury to a provider's or individual's professional reputation and problems that could result from inaccurate reporting.

II. Current Regulations

A. Medicare

The conditions for Medicare payment for laboratory services are set forth in subpart M of part 405 of the HCFA regulations. They establish conditions relating to the following aspects:

- Compliance with State and local laws.
- Laboratory director qualifications.
- Supervision.
- Tests performed.
- Technical personnel qualifications.
- Management.
- Quality control.

B. CLIA

The rules that implement the CLIA's 67 provisions are contained in part 74 of the Public Health Service regulations, and cover the following aspects:

- Applicability of the rules.
- License application, issuance, and renewal.
- Quality control.
- Personnel standards.
- Proficiency testing.
- Accreditation.
- Maintenance, retention and availability of records.
- Notice of revocation, suspension, or limitation of license or letter of exemption.

Under CLIA '67, licenses are issued annually to laboratories based on the specialties and subspecialties of tests for which the laboratory can demonstrate compliance with Federal quality standards. Under CLIA '88, certificates will be issued for a two-year period but may be suspended, limited, or revoked for noncompliance with CLIA requirements after giving the laboratory reasonable notice of deficiencies and opportunity for a hearing.

C. Consolidation of Rules.

On March 14, 1990, we published (at 55 FR 29538) a final rule with comment period to consolidate the current Medicare and CLIA '67 regulations discussed above and designate them under a new part 493-Laboratory Requirements. The requirements of part 493 were effective as of September 10, 1990 except for subpart H—Participation in Proficiency Testing, which is effective as of January 1, 1991. The requirements of part 493 will apply to virtually all laboratories and will be used to determine whether a laboratory may continue to operate and whether its services qualify for Medicare payment.

The rules proposed in this particular document would amend the new part 493 to add a subpart P—Enforcement Procedures. The impact of these changes on the programs is discussed below.

III. Program Impact

A. Medicare

Under section 1846 of the Act, Medicare payment for laboratory services may continue for up to 1 year after condition level deficiencies (noncompliance with any of the conditions that a laboratory must meet in order to obtain a CLIA certificate) have been identified, as long as one or more intermediate sanctions are being imposed. Before the enactment of OBRA '87, condition level deficiencies that were not corrected within 90 days resulted in the cancellation of the laboratory's approval for Medicare payment for its services. Because section 1846 directs HCFA to develop and implement sanctions of graduated severity according to levels of severity of deficiencies, we are proposing three levels of noncompliance:

Condition level deficiencies with immediate jeopardy.

Condition level deficiencies without immediate jeopardy.

Deficiencies below the condition level without immediate jeopardy.

The provisions of section 1846 of the Act reflect the fact that condition level deficiencies (when there is no immediate jeopardy) no longer need to trigger immediate cancellation of Medicare approval. Other measures may be employed first, while corrections are being made, in an effort to encourage laboratories to achieve compliance in a timely manner. However, condition level deficiencies that remain uncorrected after a reasonable period of time will still lead to cancellation of approval of Medicare payment for the laboratory's services. Moreover, condition level deficiencies that pose immediate jeopardy to the health and safety of individuals served by the laboratory or that of the general public will result in very swift cancellation of Medicare approval if the jeopardy is not removed immediately.

B. CLIA '88

The major program impacts of the CLIA '88 amendments—the extension of CLIA requirements to all laboratories, and the opportunity to integrate the previously separate inspection and enforcement systems—have been discussed above under *Background*. Since the CLIA language (in section 353 of the PHS Act) is essentially the same as the Medicare language in section 1846 of the Act, we believe that we should impose sanctions under CLIA based on the same levels of noncompliance as under the Medicare statute.

IV. Provisions of the Proposed Rules

A. Interpretation of Statutory Provisions: Medicare

1. Suspension of Payment

We propose to interpret the "suspension of payment" language of section 1846 of the Act as equivalent to "denial of payment" as used in section 1819 of the Act with respect to long term care facilities. For laboratories the term is used in the two following sanctions:

- Suspension of payment for all tests in all specialties or subspecialties performed on or after the effective date of sanction.
- Suspension of payment for all tests in particular specialties or subspecialties that are performed on or after the effective date of sanction.

HCFA suspends payments to which a laboratory would otherwise be entitled during a period of condition level noncompliance. HCFA resumes payment for services furnished after the laboratory achieves condition level compliance in a manner described below.

2. Consistency in the Application of Sanctions

The regulations at § 493.1828 specify that the suspension of all payments is to be used for repeat deficiencies and the failure to correct deficiencies in a timely manner. This provision is consistent with statutory requirements for nursing facilities in which the denial of payment for new admissions is required for repeat deficiencies and failure to correct deficiencies in a timely manner.

Section 1846 of the Act requires the Secretary to develop and implement specific procedures which "****** shall provide for the imposition of incrementally more severe penalties for repeated or uncorrected deficiencies." The suspension of payment sanctions also serve to fulfill this requirement, since suspension of payment for a particular specialty or subspecialty of tests is less severe than the suspension of payment for all specialties and subspecialties.

In developing these sanctions, we have also attempted to establish consistency, whenever possible, between the enforcement approach for Medicare laboratories and for laboratories that do not participate in Medicare. Specifically, the statute provides for limiting the laboratory's CLIA certificate to those specialties or subspecialties of tests for which the laboratory has demonstrated compliance with CLIA requirements. We are proposing concurrent suspension of Medicare payment for those particular specialties or subspecialties of tests not covered by the laboratory's limited CLIA certificate.

There is the possibility that in the future HCFA may have the systems capability to limit CLIA certificates at the level of individual tests rather than at the specialty or subspecialty level. In that case, intermediaries would suspend Medicare payment for the individual tests which a laboratory is not authorized to perform. Any systems enhancements that would allow CLIA certificate limitations at the test level would also allow for the suspension of payment at the test level. This change would make it unnecessary to suspend payment for all tests performed in an entire specialty or subspecialty if, in fact, the laboratory only has condition level deficiencies related to one or a few tests within the specialty or subspecialty.

We are soliciting comments on whether this more precise enforcement approach would be beneficial if the computer system can be altered to accommodate it.

3. Suspension of Part of Medicare Payments

We would impose this sanction, as previously noted, when a laboratory is found to have condition level deficiencies with respect to one or more specialties or subspecialties of tests. Medicare payment would be suspended for the specialties or subspecialties of tests for which deficiencies were cited. We consider this sanction to meet the requirement of section 1846 of the Act for HCFA to suspend part of Medicare payment to which a laboratory would otherwise be entitled.

4. Suspension of All Medicare Payments

We would impose this sanction either initially or if the laboratory has not corrected its condition level deficiencies within three months of the inspection, or if condition level deficiencies are found during three consecutive inspections. We are proposing this provision because it would be an effective enforcement device to encourage prompt compliance by laboratories. Suspension of all payments would also reflect the need for "incrementally more severe penalties for repeated or uncorrected deficiencies" required by the statute.

Suspension of payment for particular specialties or subspecialties of tests generally would be used first, as the less severe penalty. For repeat or uncorrected condition level deficiencies, HCFA would suspend all Medicare payments. The Act allows the laboratory up to one year to correct condition level deficiencies while subject to intermediate sanctions. However, if no progress is made, the laboratory's approval for Medicare payment for its services could be cancelled before the end of the year. In such case, cancellation of Medicare approval would be the most severe measure.

5. Refund of Medicare payments

This alternative sanction is based on two provisions of section 1846 of the Act. First, 1846(b) clearly authorizes the Secretary to develop "a range of intermediate sanctions" not limited to those specifically enumerated in section 1846(b)(2)(A). Second, section 1846(b)(3) requires the Secretary to develop and implement specific procedures as to when and how each intermediate sanction shall be applied.

We propose to apply this sanction whenever we apply any of the other alternative sanctions. As a condition for continued program approval, that is, in order to avoid immediate cancelaltion of its approval to receive Medicare payment for its services, a laboratory

would be required to agree that, if it does not achieve compliance within the time frames specified in the approved correction schedule, the laboratory—

- Will refund any Medicare payments it has received for services furnished during the time period covered by the correction schedule;
- Will not charge the beneficiary for any services for which the laboratory refunds the Medicare payment; and
- Will not charge the beneficiary for any services subject to a suspension of payment sanction.

Alternative sanctions are intended by Congress to encourage laboratories to correct deficiencies and achieve compliance without the need to end their participation in the program, that is, while continuing to receive Medicare payments. However, a laboratory that fails to correct the deficiencies within the approved timeframes has, in our view, forfeited the right to those payments. Certainly, were HCFA to cancel the laboratory's Medicare approval, the laboratory would have received no Medicare payments upon the effective date of the cancellation. Thus, we do not see this alternative sanction, which would enable a deficient laboratory to remain in the program, to be as severe as cancellation of its approval. Moreover, we also consider that the refund to HCFA and the suspension of Medicare payment would have little, if any, effect (in terms of encouraging the laboratory to come into compliance) if the laboratory could recoup those funds refunded to HCFA by charging the beneficiary.

B. Interpretation of Statutory Provisions: CLIA

1. Imposition of Intermediate Sanctions—General

Section 353(h) of the PHS Act provides the authority for HCFA to impose intermediate sanctions after a laboratory has been provided an opportunity to respond to a proposed sanction. We are interpreting the laboratory's opportunity to respond to be in the form of written comments or a request for a hearing, but not the hearing itself. We reach this conclusion for two reasons. First, sections 353(h) and 353(i) (which provides for suspension, revocation, or limitation of the CLIA certificate) are written differently. In the case of the former, a laboratory needs only prior notice and a "* * * reasonable opportunity to *respond* to the proposed sanction * * *," whereas in the case of the latter, laboratories are generally subject to adverse action only after notice "* * * and opportunity for *hearing* * * *" (emphasis added). Thus, Congress must have intended that we be in a position to impose an intermediate sanction in a faster timeframe and with less formal proceedings than would be the case for the more severe remedies specified in section 353(i). Second, the legislative history reflects this view of the statute. Specifically, the Report of the House Committee on Energy and Commerce, accompanying CLIA '88 provided: "The Committee recognizes the laboratory's right to procedural due process when the government is acting to restrict or place restrictions on the laboratory's authority to conduct its business. The Committee is concerned, however, about the difficulty the Department of Health and Human Services has encountered in bringing enforcement actions and, in particular, is concerned about cases remaining in litigation for months or years while substantial violations remain uncorrected. This provision would require the Secretary to establish procedures for when and how to implement these intermediate sanctions. These procedures would provide for notice and a reasonable opportunity to respond to a proposed sanction *as well as* (emphasis added) an opportunity to appeal." (House Energy and Commerce Committee Report accompanying CLIA '88 (H.R. 5150), p. 33, Report 100–899.) Clearly, the opportunity to respond and the opportunity for hearing are intended to be separate. (See § 493.1844.)

Although we believe that Congress intended to give HCFA the authority to force prompt compliance and to minimize the time lapse by providing for imposition of alternative sanctions before a hearing, we are requesting comment on this proposal. A related provision, discussed later in this preamble, would provide for all laboratories the right to hearing before imposition of a civil money penalty, a right that is granted by law to laboratories that participate in Medicare.

2. Choice of Sanction in Cases of Noncompliance

As set forth in the proposed regulations implementing the requirements for laboratories under CLIA '88 (HSQ–176–P, published on May 21, 1990 at 55 FR 20896), specialty of test is interpreted as equal to condition level, sub-specialty is equal to standard level, and test is equal to element level. For laboratories, as for other providers and suppliers, sanctions would be imposed only in response to condition-level noncompliance. However, HCFA would strongly consider the type of noncompliance present when imposing sanctions. For example, a deficiency in the condition-level requirement for successful participation in a proficiency testing program at 42 CFR 493.803 may exist due to one sub-specialty such as bacteriology (493.823), or may exist in all sub-specialties under the same condition-level specialty of microbiology (493.821), or may be exhibited with regard to more than one condition-level specialty identified in the regulations. In all three cases, because of the noncompliance with the proficiency testing condition of participation (CoP), we would impose an alternative sanction, but we would target only the problem area(s) in our enforcement approach. Therefore, we would impose a denial of payment, for example, for only the bacteriology sub-specialty, if that was the only grouping for which there was noncompliance with the proficiency testing CoP. On the other hand, we would deny payment for the entire specialty of microbiology if there was unsuccessful proficiency testing in all 5 of its sub-specialties. We would, in fact, impose a denial of payment for microbiology simultaneously with any other specialties if there was failure to perform proficiency testing successfully in other specialties. We believe that in order to make sanctions most effective, HCFA must be able to discourage laboratories from performing tests in categories in which they are out of compliance with CLIA requirements, without discouraging testing in other categories in which no deficiencies are identified.

If we do not suspend, limit, or revoke a laboratory's CLIA certificate, or cancel or limit its approval to receive Medicare payment for its services in the case of condition level deficiencies, we would always impose alternative sanctions.

We would, of course, require that all deficiencies be corrected. Except in the case of a directed plan of correction, as specified in § 493.1832, the laboratory would determine the corrective actions to be taken and would submit a correction schedule to the State survey agency or other HCFA agent.

HCFA generally relies on the professional judgement of the laboratory surveyor in evaluating whether a deficiency is classified as condition level or a lower level based on the severity and scope of the failure to meet the requirements. However, there are situations which almost always can be classified at face value as being either condition-level deficiencies with immediate jeopardy, condition-level deficiencies without immediate jeopardy, or lower level deficiencies. For example, in a situation where laboratory test results are reported for tests that

were never performed, the deficiency would be classified as condition-level with immediate jeopardy. This is because in such a fraudulent situation, falsifying test results can yield accuracy on only a random basis. The danger to patients represented by groundless test reports and the corresponding implications for inaccurate diagnosis and the inability to render early and/or correct treatment could, depending on the actual physical state of the patient, be life-threatening.

An example of a condition-level deficiency that does not pose immediate jeopardy would be a laboratory's unsuccessful performance in a proficiency testing program. Although successful performance on proficiency tests is a condition-level requirement, and an indicator of performance of similar procedures for the laboratory's own patients, because the correct answers for the specimens are predetermined by the testing organization, no patients are in actual danger due to erroneous results for the proficiency test specimens. Proficiency testing measures laboratory performance through the use of human and simulated human specimens. These specimens must be previously analyzed by reference laboratories to establish known target values. Proficiency testing samples are sent to the laboratory on a quarterly basis and are clearly labeled as proficiency testing samples. Poor performance of proficiency testing samples is an indicator of problems in laboratory quality. However, a failure in proficiency testing by itself does not constitute an immediate and serious threat to patient health and safety, since patient samples are not being measures.

In contrast, an example of a lower level deficiency would be a laboratory's lack of a current procedure manual. While the existence of a procedure manual is important to help ensure that laboratory procedures will be executed consistently and to help ensure that staff have an available resource to remain knowledgeable on accepted techniques, the absence of such a manual does not automatically mean that staff competence will significantly diminish for testing laboratory specimens.

3. Duration of Sanctions

While section 1846 of the Act limits to one year the duration of sanctions imposed in lieu of cancellation of Medicare approval, section 353 of the PHS Act does not specify a timeframe for the duration of CLIA sanctions. We propose, at § 493.1814, that if there is not immediate jeopardy, CLIA alternative sanctions may continue for more than one year, as necessary, to cover the period of time in which a request for hearing on the proposed suspension, limitation, or revocation of a CLIA certificate has been filed and is pending. Under section 1846 of the Act, HCFA may cancel Medicare approval before a hearing. However, under section 353(i) of the PHS Act, HCFA may not, except in immediate jeopardy situations, suspend or limit a CLIA certificate before a hearing. Therefore, if HCFA cancelled a laboratory's Medicare approval after the 12 months allowed for correction of deficiencies, the effective date of that cancellation would be followed by a period of time in which a hearing would be pending and the laboratory's CLIA certificate would still be valid. Although Medicare beneficiaries would be protected, all other individuals using that laboratory would not be. Continuing sanctions during the period in which the appeal is pending may motivate the laboratory to correct deficiencies in a more timely manner than it would have done otherwise, and may, in fact, make it unnecessary to suspend, limit, or revoke the CLIA certificate.

We therefore believe that continuing the CLIA sanctions during the period on which an appeal is pending is effective from a policy standpoint. It is justified based on the fact that sanctions result from the findings of the original inspection and the proposed suspension, limitation, or revocation results from the separate findings of the revisit. (See 6 below.)

We are also proposing regulations at § 493.1850 to implement § 353(n) of CLIA '88, whereby HCFA would provide for an annual report, available to physicians and the general public, containing names of laboratories and persons guilty of fraud and abuse or subject to adverse action.

4. Interpretation of "Immediate Jeopardy"

The statute provides that whenever the Secretary has reason to believe that continuation of any activity by a laboratory (either the entire laboratory operation or any specialty or subspecialty of testing) would constitute a significant hazard to the public health, the Secretary may bring suit to enjoin the continuation of that activity. We interpret "immediate jeopardy" to encompass the statutory phrase "imminent and serious risk to human health" and to be applicable to the health and safety of individuals served by the laboratory as well as to the health of the general public. We therefore propose to impose the same sanctions when a laboratory activity constitute a significant hazard to the public health as we would impose in the case of immediate jeopardy to individuals served by a laboratory.

5. Notification of the Office of the Inspector General (OIG) of any Violations

At § 493.1840(b), we specify that HCFA notifies the OIG within 30 days of any violations listed at § 493.1840(a) which could lead to the suspension, limitation, or revocation of a laboratory's CLIA certificate. This is because any of those violations could involve misrepresentation or some other form of intentional violation of CLIA requirements that may warrant action by the OIG. It is the responsibility of the OIG to determine which cases among those referred warrant their investigation.

6. Findings of a Revisit as the Basis for Initiating Suspension, Limitation, or Revocation of the CLIA Certificate in Addition to Alternative Sanctions

Under section 1846 of the Act, we are authorized to impose alternative sanctions *in lieu of* cancelling *immediately* (emphasis added) the laboratory's Medicare approval. Under this provision, we can continue alternative sanctions until the cancellation of Medicare approval is effective.

Although the corresponding provision of the PHS Act does not use the word "immediately," we believe that continuation of the alternative sanctions is even more important for the protection of the individuals served by the laboratory when HCFA takes action to initiate suspension, limitation, or revocation of the CLIA certificate. This is because, except in immediate jeopardy situations, HCFA may not suspend or limit a CLIA certificate until after a hearing, and may not revoke a CLIA certificate until after a hearing, even if there is immediate jeopardy. Accordingly, we are proposing that revisit findings which indicate that the laboratory has not corrected condition level deficiencies shall be the basis for proposing to suspend, limit, or revoke the CLIA certificate. In such situations the alternative sanctions imposed on the basis of the initial inspection would continue until the CLIA certificate is suspended, limited, or revoked. If the laboratory does not submit a credible allegation of compliance, a revisit would not be made. In that case, noncompliance would be based upon the initial inspection findings and the failure to make a credible allegation of compliance which would then become the combined basis for the new

enforcement action, i.e., the suspension, limitation, or revocation of the CLIA certificate.

7. Suspension or Revocation of a CLIA Certificate: Special Provisions

Section 353(i)(3) of the PHS Act—

Specifies that no person who has owned or operated a laboratory which has had its certificate revoked may, within two years of the revocation, own or operate a laboratory for which a CLIA certificate has been issued; and requires us to suspend the CLIA certificate of a laboratory that has been excluded from participation in Medicare because of actions relating to the quality of the laboratory and to continue the suspension for the period during which the laboratory is excluded.

The first of the above provisions can be implemented only through our authority to take adverse action against the laboratory. Accordingly we have added this situation to those that provide a basis for such adverse action. (See § 493.1840(a)(8).)

The second provision is implemented by § 493.1840(f).

C. Medicare and CLIA '88

1. Deletion of the Adjective "Clinical"

We have deleted the adjective "clinical" in the regulation when referring to laboratories that are to be regulated under OBRA '87 and CLIA '88. This is to eliminate any confusion with regard to the technical distinction between a "clinical" and an "anatomical" laboratory, and to prevent a laboratory of the latter type from attempting to show that it is not subject to the provisions of section 1846 of the Act and section 353 of the PHS Act. This policy is consistent with the intent of section 353(a) of the PHS Act, which states, in part: "As used in this section, the term 'laboratory' or 'clinical laboratory' means a facility for the biological, microbiological, serological, chemical, immuno-hematological, biophysical, cytological, pathological, *or other examination* of materials derived from the human body * * *" (emphasis added). It is clear that the legislative intent of CLIA '88 is for the terms 'laboratory' and 'clinical laboratory' to be synonymous. Accordingly, in these rules we would eliminate the previous distinction and consistently use the term "laboratory".

2. Use of the State Survey Agency for Onsite Monitoring

The statute provides the authority for HCFA to impose onsite monitoring. Under section 1846 of the Act, onsite monitoring is authorized under Medicare, but with the stipulation that the monitoring be done by an agency responsible for conducting inspections. We believe that, for reasons of continuity and consistency, the State survey agencies would be the best choice for onsite monitoring under CLIA because those agencies—

- Have the most experience in inspection activities;
- Have the ongoing responsibilities for assessing laboratory compliance;
- Inspect the entire facility (unlike other HCFA agents who inspect only specific areas);
- Also make periodic recertifications. (See § 493.1836.)

3. Cost of Onsite Monitoring

Both the PHS Act and the Social Security Act require the laboratory to pay the costs of onsite monitoring. As specified in § 493.1836, the costs are to be computed based on the number of hours the monitor is used in the laboratory, multiplied by the State hourly rate negotiated by HCFA and the State to conduct the monitoring. The hourly rate includes salary, fringe benefits, travel and other direct and indirect costs approved by HCFA.

4. Civil Money Penalties

Section 1846 of the Act provides that a civil money penalty may not be imposed as an alternative sanction until after a hearing before an administrative law judge (ALJ). Section 353(h) of the PHS Act is silent on when a civil money penalty may be imposed. Despite these differences in the laws, we are proposing a uniform policy under which any laboratory (regardless of whether it participates in Medicare) would have a right to a hearing before we impose a civil money penalty.

The regulations at § 493.1834 specify that, following an ALJ hearing, HCFA may impose a civil money penalty as an alternative sanction for laboratories with condition-level noncompliance. HCFA would assess each laboratory's noncompliance on an individual basis in order to determine the amount of penalty to be imposed. For noncompliance that poses immediate jeopardy, HCFA may impose from $3,050—$10,000 per day of noncompliance, or for each violation. $10,000 is the maximum amount specified by section 1846 of the Act and section 353(h) of the PHS Act for each day of noncompliance or each violation. $3,050 is the lowest amount judged by HCFA to be effective in encouraging compliance in an immediate jeopardy situation. For situations that do not pose immediate jeopardy, the range would be from $50–$3,000 for each day of noncompliance, or for each violation.

HCFA may reduce the proposed civil money penalty by 35 percent if the laboratory does not request a hearing. This reduction in the civil money penalty would reflect the savings of costs that would otherwise be incurred by the Federal government and the laboratory in the conduct of a hearing.

Section 493.1834 also provides for HCFA to give the laboratory written notice of intent to impose a civil money penalty. The notice would specify the statutory basis for the penalty, the factors considered, the proposed daily or per violation amount of the penalty, and the laboratory's appeal rights. The penalty would begin to accrue 5 days after the notice of intent if there is immediate jeopardy, and 15 days after notice of intent if there is no immediate jeopardy. We have determined that the date of notice (rather than the last day of inspection) is the appropriate date from which to calculate the beginning date of the accrual of the penalty because there may be a "lag time" between the date of the inspection by a HCFA agent and the date on which the agent informs HCFA (who can then inform the laboratory) of the laboratory's noncompliance. HCFA wants to ensure that a civil money penalty does not begin accruing before the laboratory is officially informed of its deficiencies and has 5 or 15 days (depending on the seriousness of the deficiencies) to correct its noncompliance. This is consistent with the long-standing HCFA policy to afford providers and suppliers an opportunity to correct deficiencies before taking adverse action.

We have determined and set forth in these regulations that a civil money penalty continues to accrue until the laboratory's condition level compliance is verified, or HCFA suspends, limits, or revokes the laboratory's CLIA certificate because it failed to achieve compliance.

HCFA computes the total penalty amount after HCFA verifies condition level compliance, or suspends, limits or revokes the CLIA certificate, but in no event until—

- The 60-day period for requesting a hearing has expired without a request or the laboratory has explicitly waived its right to a hearing; or
- If the laboratory requests a hearing, a hearing decision has been issued.

HCFA sends the laboratory notice of the total amount and of the due date, which is 15 days after that notice. Since HCFA notifies the laboratory of the daily or per violation amount when it gives the laboratory the notice of intent

to impose the sanction, we believe that 15 days notice of the total amount due is sufficient. We have developed other debt collection and interest policies consistent with those already in use by the Department. The system would allow collection through offset of other money owed to the laboratory by the Federal government, and would allow for negotiating interest rates on unpaid balances as a function of factors such as the length of the repayment period.

5. Notification of Clients of a Laboratory Against Which HCFA Has Imposed Alternative Sanctions, Cancelled Its Medicare Approval and Suspended Its CLIA Certificate, or Limited or Revoked Its Certificate

Whenever HCFA imposes an alternative sanction against a laboratory, it would require that a plan of correction be in effect simultaneously with the duration of the alternative sanction. Part of that plan could be a traditional plan of correction in the sense that it would not be directed by HCFA. However, a portion of that plan, if not all of it, would be directed, under the authority set forth at section 353(h)(3) of the Public Health Service Act (PHS Act). Specifically, HCFA would direct the laboratory to include, as part of that plan, the submission to HCFA or its agent of a list of names and addresses of every physician, provider, supplier, or other client that has used the services of the laboratory since the last certification inspection, and HCFA would inform the laboratory of the rationale for requiring the submission of this information. HCFA, through the State survey agency (SA), would use this list to notify the clients of any laboratory against which an alternative sanction has been imposed due to condition level noncompliance, and of any laboratory which, subsequently, did not correct its deficiencies and therefore had a principal sanction imposed (that is, cancellation of Medicare approval and suspension of the CLIA certificate, or limitation or revocation of the CLIA certificate).

As part of the directed portion of the plan of correction, HCFA would require that the laboratory release to HCFA, the SA, and other HCFA agent, no later than 10 calendar days after the notice to the laboratory of the alternative sanction, the name and address of each physician, provider, supplier, or other client that has used the services of the laboratory since the last certification inspection. Within 30 calendar days of the receipt of the above information, the SA would send each laboratory client a notice that would include the name and address of the laboratory and the nature and effective date of the adverse action. Clients that have used the services of the sanctioned laboratory would then be able to make an informed decision, based on the reason for the sanction, as to whether or not patients must be retested. Within 30 calendar days after the recision of an adverse action, the SA would issue a notice of recision to each laboratory client that had been previously notified of the adverse action.

D. Appeals Process

Current rules in part 498 of the HCFA regulations (Appeals Procedures for Determinations that Affect Participation of the Medicare) have always been applicable to laboratories that participated or sought to participate in the Medicare, during the time when CLIA requirements applied only to laboratories that engaged in interstate commerce. Now virtually all laboratories must meet CLIA requirements and HCFA is responsible for enforcing those requirements as well as the conditions for Medicare approval. We believe that efficiency and economy can best be served by having uniform policies and procedures and a single hearing when HCFA or the OIG takes adverse actions under the Medicare law or the PHS Act.

The differences in the timing of hearings are reflected in § 493.1844:

Since alternative sanctions (except as discussed above, with respect to civil money penalties) and cancellation of Medicare approval may be imposed before a hearing, the laboratory would have an opportunity to respond under §§ 493.1810 and 493.1842. With respect to adverse action on a CLIA certificate, § 493.1844 provides that HCFA may never revoke a CLIA certificate except after a hearing and may suspend or limit the certificate before a hearing only if there is immediate jeopardy to the health and safety of the general public or of individuals served by the laboratory.

A laboratory subject to both cancellation of the approval to receive Medicare payment for its services and to proposed suspension, limitation, or revocation of its CLIA certificate would have a single hearing, provided after cancellation of its Medicare approval and generally before suspension, limitation, or revocation of its CLIA certificate.

Under § 493.1810, the advance notice period (of at least 5 days if there is immediate jeopardy, and at least 15 days if there is not) provides opportunity for the laboratory to submit written evidence or other information against imposition of an alternative sanction. In an immediate jeopardy situation, 23 days is the maximum time allowed for removal of the jeopardy. Therefore, cancellation of Medicare approval and suspension or limitation of a laboratory's CLIA certificate occurs within 23 days of the last day of inspection, if the laboratory does not remove the jeopardy. In other words, HCFA may cancel a laboratory's Medicare approval and suspend or limit its CLIA certificate at any time between 6 and 23 days. Under these circumstances, the laboratory has a right to an ALJ hearing after the sanction is imposed.

Even before the opportunity to respond to a notice of sanction, the laboratory, reflecting current practice, would have an informal opportunity to respond to a tentative summary of its deficiencies during the exit conference at the end of the inspection, and to the notice of deficiencies, which provides a space for the laboratory to respond and to submit a plan of correction, if appropriate.

Consistent with long-standing policies in part 498 (Appeals Procedures for Determinations that Affect Participation in Medicare), certain administrative actions that affect laboratories would not be appealable under part 498. These actions are listed in § 493.1844(d) as actions that are "not initial determinations". Most of them reflect the major thrust of these appeals policies—i.e., that it is the adverse action itself that is appealable. In the case of laboratories, the appealable adverse actions are the imposition of one or more alternative sanctions, the cancellation of approval to receive Medicare payment for the laboratory's services, and the suspension, limitation, or revocation of the CLIA certificate.

An example of an administrative action that is not an "initial determination"—and therefore not appealable under § 493.1844, is HCFA's choice of sanctions. (If the laboratory is found to have condition level deficiencies, HCFA would impose sanctions and the imposition of sanctions is an initial determination and therefore subject to appeal under § 493.1844.) In other words, while a laboratory may appeal the imposition of any alternative sanction, it may not challenge HCFA's choice of sanction. We believe this is a reasonable limitation because the statute rests complete discretion in the Secretary as to which sanction he considers most appropriate to correct the particular deficiencies found during inspection of the laboratory.

In § 493.1844, we would provide that any laboratory dissatisfied with HCFA's denial of its application for a CLIA certificate or for approval to receive Medicare payment for its services, or with HCFA's refusal to convert the laboratory's provisional CLIA certificate to a CLIA certificate, may request reconsideration in accordance with §§ 498.22 through 498.25 of this chapter.

For laboratories, we are following the "integrated" approach, under which all the provisions pertaining to laboratories are presented together in a new Part 493—"Laboratory Requirements". Accordingly, we have preferred to include the appeals procedures for laboratories in part 493 with appropriate references to part 498. When we publish these proposed rules in final form, we will make any necessary coforming changes in part 498.

Note on designation. This document proposes to designate the enforcement procedures for laboratories as subpart P of part 493 of the HCFA rules. Through an oversight, and because this document has been delayed, an NPRM published on May 21, 1990 proposed to establish a subpart P of part 493, consisting of a single § 493.1801 that would set forth the conditions for use of computer systems in connection with specimen testing and reporting. The final rules will correct the designations to eliminate the duplication.

E. Laboratory Registry

The regulations at § 493.1850 specify that once a year HCFA and the OIG make available to physicians and to the general public specific information that is useful in evaluating the performance of laboratories. The laboratory registry will include:

- A list of laboratories that have been convicted, under Federal or State laws relating to fraud and abuse, false billing, or kickbacks.
- A list of laboratories that have had their CLIA certificates suspended, limited, or revoked, and the reason for the adverse actions.
- A list of persons who have been convicted of violating CLIA requirements, together with the circumstances of each case and the penalties imposed.
- A list of laboratories on which alternative sanctions have been imposed, and the reasons for imposing them, and any evidence of corrective action taken by the laboratory.
- A list of laboratories whose accreditation has been withdrawn or revoked and the reasons for the withdrawal or revocation.
- A list of laboratories against which HCFA has brought suit under § 493.1846 and the reasons for those actions.
- A list of laboratories that have been excluded from participation in Medicare and the reasons for the exclusion.

The laboratory registry is compiled for the year preceding the date the information is made available and includes appropriate explanatory information to aid in the interpretation of the data.

We are soliciting comments on what additional explanatory information could be included that would be useful to physicians and to the public in evaluating the performance of laboratories.

V. Regulatory Impact Analysis

A. Executive Order 12291 and Regulatory Flexibility Act

Executive Order 12291 (E.O. 12291) requires us to prepare and publish a regulatory impact analysis for any proposed major rule that meets one of the E.O. 12291 criteria for a "major rule"; that is, that would be likely to result in—

- An annual effect on the economy of $100 million or more;
- A major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or
- Significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

In addition, we generally prepare a regulatory flexibility analysis that is consistent with the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 through 612) unless the Secretary certifies that a proposed rule would not have a significant economic impact on a substantial number of small entities. For purposes of the RFA, all laboratories are considered to be small entities.

Also, section 1102(b) of the Act requires the Secretary to prepare a regulatory impact analysis if a proposed rule may have a significant economic impact on the operations of a substantial number of small rural hospitals. Such an analysis must conform to the provisions of section 603 of the RFA. For purposes of section 1102(b) of the Act, we define a small rural hospital as a hospital that is located outside of a Metropolitan Statistical Area and has fewer than 50 beds.

These proposed regulations implement certain provisions of the Omnibus Budget Reconciliation Act of 1987 (OBRA '87) and the 1988 amendments to the Clinical Laboratory Improvement Act (CLIA '88). The law authorizes sanctions and these regulations clarify and set forth the rules for sanctions that may be imposed on laboratories found to be noncompliant with CLIA '88 requirements. This rule has the potential for causing an annual impact of $100 million or more, depending upon the types of sanctions imposed upon laboratories. The rule could adversely affect competition among laboratories if a substantial number of laboratories were to close or choose not to conduct certain tests, thereby allowing the laboratories performing the tests to control access to the tests and prices to private patients. Therefore, we have prepared the following voluntary analysis which is intended to conform to the objectives of E.O. 12291, the RFA and section 1102(b) of the Act.

The primary purpose of this regulation is to create a national enforcement mechanism that affects virtually every laboratory in the country, regardless of whether it is involved in interstate commerce or whether it is approved to receive Medicare payment for its services.

We estimate that there may be anywhere from 300,000 to 600,000 laboratories in the nation that could potentially come under these provisions. It is possible that this regulation may change the practice patterns of laboratories across the country. Some laboratories may close because they cannot meet our requirements or, out of fear of being sanctioned, some laboratories may choose not to perform certain tests. Other laboratories may increase their fees to private patients to cover the costs of upgrading facilities to meet CLIA '88 requirements.

Further, physicians may be forced to use another laboratory if a laboratory they were using before has its CLIA certificate revoked, limited or suspended.

We also expect States to be affected by this regulation. States may experience some additional administrative burden because they may have to make more recommendations for cancellation of Medicare approval or identify an increased number of noncompliant laboratories. The Federal survey and certification costs involved in implementing the provisions of this proposal will be met through fees collected from laboratories. (See proposed rule: Clinical Laboratory Improvement Act Programs: Fee Collection, published August 3, 1990, at

55 FR 31758.) Private patients may experience an increase in laboratory test fees as laboratories: (1) Upgrade their facilities to meet our requirements and (2) pay the enforcement user fee.

At this time we are unable to determine the number of laboratories that may be adversely affected because they are not in compliance with Federal requirements. We invite comments on any policy aspects we may have overlooked and any provisions that create an unreasonable burden. We are particularly interested on the extent to which these sanctions may encourage laboratories to limit their testing or close rather than risk being sanctioned, and any alternative means by which, consistent with the statute, the goals of the proposed regulations could be achieved.

For these reasons, we believe that this rule has potential under E.O. 12291 to become a major rule and that this rule could have a significant impact on some laboratories.

B. Executive Order 12612

Under Executive Order 12612, "Federalism," we must prepare a Federalism Assessment for any action that may have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. The enforcement system to be imposed under CLIA '88, would have a substantial effect on the relationship between the Federal Government and the States in the area of clinical laboratory regulation.

Until passage of this statute, the Federal Government regulated about 12,000 clinical laboratories, mainly those engaged in interstate commerce or based in hospitals participating in Medicare. The much more numerous interstate laboratories, including those located in physician's offices, were in many, though not all cases, regulated by the States. CLIA '88 does not preclude continued State regulation and licensure. It allows HCFA to accept results of inspections performed by State licensure agencies (as well as private non-profit organizations) as proof of a laboratory's meeting requirements for a CLIA certificate. (See our proposed rule: Clinical Laboratories Improvement Act Programs; Granting and Withdrawal of Deeming Authority to Private Nonprofit Accreditation Organizations and State Licensure Agencies, published August 20, 1990 at 55 FR 33936). However, a realistic appraisal suggests that except for those States electing to operate within a narrowly circumscribed Federal framework, and except for the essential function of personnel licensure which is left almost entirely to the States, there will be little of the former role for States in laboratory regulation remaining under CLIA '88.

Under the regulations referred to in the preceding paragraph:

- Licensure of personnel is left largely to the States;
- States are relieved of the responsibility for licensure of their laboratories; and
- States approved by HCFA for acceptance of their laboratory inspection results as proof of a laboratory's compliance or noncompliance with CLIA requirements will receive user fees from laboratories they inspect.

The Assistant Secretary for Planning and Evaluation, the designated official under the Executive Order, certifies that this proposed rule has been assessed in light of the principles, criteria, and requirements stated in the Executive Order.

VI. Paperwork Reduction Act

Under §§ 493.1816 and 493.1818 of these rules, laboratories with deficiencies are required to submit plans of correction that involve collection of information and are, therefore subject to review by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1980. When OMB approves this requirement, we will publish a Federal Register notice to that effect. It is estimated that the development of a plan of correction requires an average of 5 hours. If you comment on this requirement, please send a copy of those comments directly to: Office of Information and Regulatory Affairs, Office of Management and Budget, room 3002, New Executive Office Bldg., Washington, DC 20503, Attention: Allison Herron, Desk Officer for HCFA.

VII. Response to Comments

Because of the many comments were receive, we cannot respond to them individually. However, in the preamble to the final rule we will discuss all timely comments.

VIII. List of Subjects in 42 CFR Part 493

Laboratories, Medicare, Medicaid, Health facilities, Reporting and recordkeeping requirements.

42 CFR chapter IV would be amended as set forth below.

A. The authority citation for part 493 is revised to read as follows:

Authority: Secs. 1102, 1846, 1861(e), the sentence following 1861(s)(11), 1861(s)(12) and 1861(s)(13) of the Social Security Act and sec. 353 of the Public Health Service Act (42 U.S.C. 263a, 1302, 1395w–2, the sentence following sec. 1395x(s)(11), and sec. 1395x(s)(12) and (13)).

B. A new subpart P is added to part 493 to read as follows:

PART 493—LABORATORY REQUIREMENTS

Subpart P—Enforcement Procedures

Sec.

Subpart P—Enforcement Procedures

§ 493.1800 Basis and scope.

(a) *Statutory basis.* (1) Section 1846 of the Act—

(i) Provides for intermediate sanctions that may be imposed on laboratories that perform clinical diagnostic tests on human specimens when those laboratories are found to be out of compliance with one or more of the conditions for Medicare coverage of their services; and

(ii) Requires the Secretary to develop and implement a range of such sanctions, including four that are specified in the statute.

(2) The Clinical Laboratory Improvement Act (section 353 of the Public Health Service Act) as amended by CLIA '88—

(i) Establishes requirements for all laboratories that perform clinical diagnostic tests on human specimens;

(ii) Requires a Federal certification scheme to be applied to all such laboratories; and

(iii) Grants the Secretary broad enforcement authority, including—

(A) Use of three specified intermediate sanctions;

(B) Suspension, limitation, or revocation of the certificate of a laboratory that is out of compliance with one or more requirements for a certificate; and

(C) Civil suit to enjoin any laboratory activity that constitutes a significant hazard to the public health.

(3) Section 353 also—

(i) Provides for imprisonment or fine for any person convicted of intentional violation of CLIA requirements;

(ii) Specifies the administrative hearing and judicial review rights of a laboratory that is sanctioned under CLIA; and

(iii) Requires the Secretary to publish annually a list of all laboratories that have been sanctioned during the preceding year.

(b) *Scope.*

This subpart sets forth—

(1) The policies and procedures that HCFA follows to enforce the requirements applicable to laboratories under CLIA and under section 1846 of the Act; and

(2) The appeal rights of laboratories on which HCFA or the OIG imposes sanctions.

§ 493.1801 Definitions.

As used in this subpart, unless the context indicates otherwise—

CLIA stands for Clinical Laboratory Improvement Act.

CLIA certificate means a certificate issued to a laboratory after an inspection that finds the laboratory to be in compliance with all condition level requirements.

CLIA provisional certificate or *provisional certificate* means a two year approval for a laboratory to operate before being inspected for a CLIA certificate, or an extension of a provisional certificate granted when a laboratory appeals a refusal by HCFA to convert a laboratory's provisional certificate to a CLIA certificate.

Condition level requirement means any of the conditions that a laboratory must meet in order to obtain a CLIA certificate, and that are set forth in subparts G through M of this part, and *condition-level deficiency* means noncompliance with any of those conditions.

HCFA agent means an organization, including the State survey agency, with which HCFA contracts to perform inspections and inspection-related activities.

Immediate jeopardy means a situation in which immediate corrective action is necessary because the laboratory's noncompliance with one or more condition level requirements has already caused, is causing, or is likely to cause, at any time, serious injury or harm to individuals served by the laboratory or to the health or safety of the general public.

Lower level deficiency means a deficiency with respect to one or more of the requirements that are below the condition level.

OIG stands for the Department's Office of the Inspector General.

§ 493.1804 General considerations.

(a) *Purpose.*

The enforcement mechanisms set forth in this subpart have the following purposes:

(1) To protect all individuals served by laboratories against substandard testing of specimens.

(2) to safeguard the general public against health and safety hazards that might result from laboratory activities.

(3) To motivate laboratories to comply with Medicare and CLIA requirements so that they can provide accurate and reliable test results.

(b) *Basis for decision to impose sanctions.*

(1) HCFA's decision to impose sanctions is based on—

(i) Deficiencies found during inspections performed by HCFA or its agents or performed by the OIG or by state survey agencies and reported to HCFA with the agency's recommendation for corrective action; and

(ii) Unsatisfactory results of proficiency testing.

(2) HCFA imposes one or more of the alternative sanctions specified in § 493.1806 and § 493.1807 when HCFA or the State survey agency finds that a laboratory has condition-level deficiencies.

(c) *Imposition of alternative sanctions.*

(1) HCFA may impose alternative sanctions in lieu of the principal sanctions, which are suspension, limitation, or revocation of the laboratory's CLIA certificate, or cancellation of the laboratory's approval to receive Medicare payment for its services.

(2) HCFA may impose alternative sanctions other than a civil money penalty after the laboratory has had an opportunity to respond, but before the hearing specified in § 493.1844.

(d) *Choice of sanction: Factors considered.*

(1) HCFA bases its choice of sanction or sanctions on consideration of factors that include, but are not limited to, the following, as assessed by the State survey agency, by HCFA, or its other agents:

(i) Whether the deficiencies pose immediate and serious threat.

(ii) The nature, incidence, severity, and duration of the deficiencies or noncompliance.

(iii) The existence of one or more repeat deficiencies at the condition level.

(iv) The accuracy and extent of laboratory records (e.g., of remedial action) in regard to the noncompliance, and their availability to the State, to other HCFA agents, and to HCFA.

(v) The relationship of one deficiency or group of deficiencies to other deficiencies.

(vi) The overall compliance history of the laboratory including but not limited to any period of noncompliance that occurred between certifications of compliance.

(vii) The corrective and long-term compliance outcomes that HCFA hopes to achieve through application of the sanction.

(viii) Whether the laboratory has made any progress toward improvement following a reasonable opportunity to correct deficiencies.

(2) In selecting a particular sanction or group of sanctions, the primary aim is to ensure that a laboratory corrects its deficiencies.

(e) *Number of alternative sanctions.*

HCFA may impose a separate sanction for each condition level deficiency or a single sanction for all condition level deficiencies that are interrelated and subject to correction by a single course of action.

(f) *Appeal rights.*

The appeal rights of laboratories are set forth in § 493.1844.

§ 493.1806 Available sanctions: All laboratories.

(a) *Applicability.*

HCFA may impose the sanctions specified in this section on a laboratory that is out of compliance with any CLIA requirement.

(b) *Principal sanction.*

HCFA may suspend, limit, or revoke the laboratory's CLIA certificate.

(c) *Alternative sanctions.*

HCFA may impose one or more of the following alternative sanctions in lieu of

suspension, limitation, or revocation of the laboratory's CLIA certificate:

(1) Directed plan of correction, as set forth at § 493.1832.

(2) State onsite monitoring as set forth at § 493.1836.

(3) Civil money penalty, as set forth at § 493.1834.

(d) *Civil suit.*

HCFA may bring suit in the appropriate U.S. District Court to enjoin continuation of any activity of a laboratory if HCFA has reason to believe that continuation of the activity would constitute a significant hazard to the public health.

(e) *Criminal sanctions.*

Under section 353(1) of the PHS Act, an individual who is convicted of intentionally violating any CLIA requirement may be imprisoned or fined.

§ 493.1807 Additional sanctions: Laboratories that participate in Medicare.

The following additional sanctions are available for laboratories that are out of compliance with any CLIA requirement and that have approval to receive Medicare payment for their services.

(a) *Alternative sanctions.*

(1) Suspension of payment for tests in one or more specific specialties or subspecialties, performed on or after the effective date of sanction.

(2) Suspension of payment for all tests in all specialties and subspecialties performed on or after the effective date of sanction.

(3) Refund of Medicare payments for services furnished while another alternative sanction is in effect.

(b) *Cancellation of approval to receive Medicare payment for laboratory services.*

HCFA may cancel the laboratory's approval to receive Medicare payment for its services.

§ 493.1808 Adverse action on CLIA certificate: Effect on Medicare approval.

(a) *Suspension or revocation of a laboratory's CLIA certificate.*

When HCFA suspends or revokes a CLIA certificate, HCFA concurrently cancels the laboratory's approval to receive Medicare payment for its services.

(b) *Limitation of CLIA certificate.*

When HCFA limits a CLIA certificate, HCFA concurrently limits Medicare approval to only those specialties or subspecialties that are authorized by the laboratory's limited certificate.

§ 493.1810 Imposition of alternative sanctions.

(a) *Notice of sanction: Content.*

HCFA gives the laboratory written notice of—

(1) The sanction or sanctions to be imposed.

(2) The effective date and duration of sanction.

(3) The authority for the sanction.

(b) *Notice of sanction: Timing.*

(1) If HCFA or its agents determine that the deficiencies pose immediate jeopardy, HCFA provides notice at least 5 days before the effective date of sanction.

(2) If HCFA or its agents determine that the deficiencies do not pose immediate jeopardy, HCFA provides notice at least 15 days before the effective date of sanction.

(c) *Opportunity to respond.*

During the notice period specified in paragraph (b) of this section, the laboratory may submit written evidence or other information against imposition of the sanction.

(d) *Duration of alternative sanctions.*

An alternative sanction continues until the earlier of the following occurs:

(1) The laboratory corrects all condition level deficiencies.

(2) HCFA's suspension, limitation, or revocation of the laboratory's CLIA certificate becomes effective.

§ 493.1812 Action when deficiencies pose immediate jeopardy.

If a laboratory's deficiencies pose immediate jeopardy to the health and safety of the general public or individuals served by the laboratory, the following rules apply:

(a) HCFA requires the laboratory to take immediate action to remove the jeopardy and may impose one or more alternative sanctions to help bring the laboratory into compliance.

(b) If the findings of a revisit indicate that a laboratory has not eliminated the jeopardy, HCFA suspends or limits the laboratory's CLIA certificate within 23 days from the last day of inspection, effective no earlier than 5 days after the date of notice of suspension or limitation.

(c) In addition, if HCFA has reason to believe that the continuation of any activity by the laboratory (either the entire laboratory operation or any speciality or subspecialty of testing) would constitute a significant hazard to the public health, HCFA may bring suit and seek a temporary injunction or restraining order against continuation of that activity by the laboratory.

§ 493.1814 Action when deficiencies are at the condition level but do not pose immediate jeopardy.

If a laboratory has condition level deficiencies that do not pose immediate jeopardy, the following rules apply:

(a) *Initial action.*

(1) HCFA may cancel the laboratory's approval to receive Medicare payment for its service.

(2) HCFA imposes one or more alternative sanctions.

(b) *Failure to correct condition level deficiencies.*

If HCFA imposes alternative sanctions for condition level deficiencies that do not pose immediate jeopardy, and the laboratory does not correct the condition level deficiencies within 12 months after the last day of inspection, HCFA—

(1) Cancels the laboratory's approval to receive Medicare payment for its services, and discontinues the Medicare payment sanctions as of the day cancellation is effective.

(2) Following a revisit which indicates that the laboratory has not corrected its condition level deficiencies, notifies the laboratory that it proposes to suspend, limit, or revoke the CLIA certificate, and the laboratory's right to hearing; and

(3) May impose (or continue, if already imposed) any alternative sanctions that do not pertain to Medicare payments. (Sanctions imposed under the authority of section 353 of the PHS Act may continue for more than 12 months from the last date of inspection, while a hearing on the proposed suspension, limitation, or revocation of a CLIA certificate is pending.)

(c) *Action after hearing.*

If a hearing decision upholds a proposed suspension, limitation, or revocation of the CLIA certificate, HCFA discontinues any alternative sanctions as of the day it makes the suspension, limitation, or revocation effective.

§ 493.1816 Action when deficiencies are below the condition level.

If a laboratory has lower level deficiencies, the following rules apply:

(a) *Initial action.*

The laboratory must submit a plan of correction that is acceptable to HCFA in content and time frames.

(b) *Failure to correct deficiencies.*

If the laboratory does not correct these deficiencies within 12 months after the last day of inspection, the following rules apply:

(1) HCFA cancels the laboratory's approval to receive Medicare payment for its services.

(2) If a revisit indicates that the laboratory has not corrected its deficiencies, HCFA notifies the laboratory of its intent to suspend, limit, or revoke the laboratory's CLIA certificate and the laboratory's right to a hearing.

§ 493.1820 Ensuring timely correction of deficiencies.

(a) *Timing of visits.*

The State survey agency or other HCFA agent may visit the laboratory during the period covered by the facility's plan of correction to evaluate progress, and at the end of the period to determine whether all corrections have been made.

(b) *Lack of substantial progress.*

If during a visit it is found that the laboratory has not achieved substantial progress in meeting the terms of its plan of correction, HCFA may propose to suspend, limit, or revoke the laboratory's CLIA certificate.

(c) *Additional time for correcting lower level deficiencies.*

If at the end of the plan of correction period all condition level deficiencies have been corrected, and there are lower level deficiencies, HCFA may request a revised plan of correction. The revised plan may not extend beyond 12 months from the last day of the inspection that originally identified the cited deficiencies.

(d) *Persistence of deficiencies.*

If at the end of the period covered by the plan of correction, the laboratory still has deficiencies, the rules of § 493.1814 and § 493.1816 apply.

§ 493.1826 Suspension of part of Medicare payments.

(a) *Application.*

(1) HCFA may impose this sanction if a laboratory—

(i) Is found to have condition level deficiencies with respect to one or more specialties or subspecialties of tests; and

(ii) Chooses to agree not to charge Medicare beneficiaries for the services for which Medicare payment is suspended.

(2) HCFA suspends Medicare payment for those specialties or subspecialties of tests for which the laboratory is out of compliance with federal requirements.

(b) *Procedures.*

Before imposing this sanction, HCFA provides notice of sanction and opportunity to respond in accordance with § 493.1810.

(c) *Duration and effect of sanction.*

This sanction continues until the laboratory corrects the condition level deficiencies or HCFA cancels the laboratory's approval to receive Medicare payment for its services, but in no event longer than 12 months.

(2) If the laboratory corrects all condition; level deficiencies, HCFA resumes Medicare payment effective for all services furnished on or after the date the deficiencies are corrected.

§ 493.1828 Suspension of all Medicare payments.

(a) *Application.*

(1) HCFA may suspend payment for all Medicare-approved services when the laboratory has condition level deficiencies.

(2) HCFA suspends payment for all Medicare covered services when the following conditions are met:

(i) Either

(A) The laboratory has not corrected its condition level deficiencies included in the plan of correction within 3 months from the last date of inspection; or

(B) The laboratory has been found to have repeat condition level deficiencies during three consecutive inspections; and

(ii) The laboratory has chosen (in return for not having its Medicare approval immediately cancelled), to not charge Medicare beneficiaries for services for which Medicare payment is suspended.

(3) HCFA suspends payment for services furnished on and after the effective date of sanction.

(b) *Procedures.*

Before imposing this sanction, HCFA provides notice of sanction and opportunity to respond in accordance with § 493.1810.

(c) *Duration and effect of sanction.*

(1) Suspension of payment continues until all condition level deficiencies are corrected, but never beyond twelve months.

(2) If all the deficiencies are not corrected by the end of the 12 month period, HCFA cancels the laboratory's approval to receive Medicare payment for its services.

§ 493.1830 Refund of Medicare payments.

(a) *Application.*

HCFA imposes this sanction whenever it imposes one or more of the other alternative sanctions listed in §§ 493.1806 and 493.1807.

(b) *Procedures.*

HCFA gives the laboratory the choice of having its Medicare approval cancelled immediately or agreeing that, if it does not achieve compliance within the time specified in the approved plan of correction, the laboratory—

(1) Will refund any Medicare payments it has received for services furnished during the time period covered by the correction schedule; and

(2) Will not charge the beneficiary for any services for which the laboratory refunds the Medicare payment.

(c) *Duration of penalty.*

The laboratory's agreement, as specified in paragraph (b) of this section, continues in effect for the duration of the correction period.

§ 493.1832 Directed plan of correction and directed portion of a plan of correction.

(a) *Application.*

HCFA may impose a directed plan of correction as an alternative sanction for any laboratory that has condition level deficiencies. If HCFA does not impose a directed plan of correction as an alternative sanction for a laboratory that has condition level deficiencies, it at least imposes a directed portion of a plan of correction when it imposes any of the following alternative sanctions: (1) State onsite monitoring. (2) civil money penalty. (3) suspension of all or part of Medicare payments.

(b) *Procedures.*

(1) *Directed plan of correction.* When imposing this sanction, HCFA—

(i) Gives the laboratory prior notice of the sanction and opportunity to respond in accordance with § 493.1810;

(ii) Directs the laboratory to take specific corrective action within specific time frames in order to achieve compliance; and

(iii) Directs the laboratory to submit the names of laboratory clients for notification purposes, as specified in paragraph (b)(2) of this section.

(2) *Directed portion of a plan of correction.* When imposing this sanction, HCFA—

(i) Directs the laboratory to submit to HCFA, the State survey agency, or other HCFA agent, within 10 calendar days after the notice to the laboratory of the alternative sanction, a list of names and addresses of all physicians, providers, suppliers, and other clients who have utilized the services of the laboratory since the last certification inspection;

(ii) Within 30 calendar days of receipt of the information, sends, via the State survey agency, a notice containing the name and address of the laboratory, and the nature and effective date of the alternative sanction, to each laboratory client; and

(iii) Sends, via the State survey agency, a notice to each laboratory client of a recission of an adverse action within 30 days of the recission.

(3) *Notification of imposition of a principal sanction following the imposition of an alternative sanction.*

If HCFA imposes a principal sanction (that is, cancellation of Medicare approval and suspension of the CLIA certificate, or limitation or revocation of the CLIA certificate) following the imposition of an alternative sanction, and therefore has received a list of laboratory clients, HCFA notifies the clients of the laboratory of the imposition of the principal sanction.

(c) *Duration of a directed plan of correction.*

If HCFA imposes a directed plan of correction, and the laboratory does not correct all of its deficiencies within 12 months from the last day of inspection, the following rules apply:

(1) HCFA takes the following actions:

(i) Cancels the laboratory's approval for Medicare payment of its services.

(ii) Following a revisit which indicates that the laboratory has not corrected its deficiencies, notifies the laboratory of HCFA's intent to suspend, limit, or revoke the laboratory's CLIA certificate.

(2) The directed plan of correction continues in effect until the day suspension, limitation, or revocation of the CLIA certificate is effective.

§ 493.1834 Civil money penalty.

(a) *Statutory basis.*

Sections 1846 of the Act and 353(h)(2)(B) of the PHS Act authorize the Secretary to impose civil money penalties on laboratories.

(b) *Scope.*

This section sets forth the procedures that HCFA follows to impose a civil money penalty in lieu of suspending, limiting, or revoking the CLIA certificate of a laboratory that is found to have condition level deficiencies.

(c) *Basis for imposing a civil money penalty.*

HCFA may impose a civil money penalty against any laboratory determined to have deficiencies regardless of whether those deficiencies pose immediate jeopardy.

(d) *Amount of penalty.*

(1) *Factors considered.*

In determining the amount of the penalty, HCFA takes into account the following factors:

(i) The nature, scope, severity, and duration of the noncompliance.

(ii) The existence of repeat deficiencies at the condition level.

(iii) The laboratory's overall compliance history including but not limited to any period of noncompliance that occurred between certifications of compliance.

(iv) The laboratory's intent or reason for noncompliance and degree of culpability.

(v) The accuracy and extent of laboratory records and their availability to HCFA, the State survey agency, or other HCFA agent.

(2) *Range of penalty amount.*

(i) For a condition level deficiency that poses immediate jeopardy, the range is $3,050–$10,000 per day of noncompliance or per violation.

(ii) For a condition level deficiency that does not pose immediate jeopardy, the range is $50–$3,000 per day of noncompliance or per violation.

(3) *Decreased penalty amounts.*

If the immediate jeopardy is removed, but the deficiency continues, HCFA shifts the penalty amount to the lower range.

(4) *Increased penalty amounts.*

HCFA may increase the penalty amount for a laboratory that—

(i) Alleges compliance but, on revisit by HCFA, the State survey agency or other HCFA agent, is found to still be out of compliance; or

(ii) Fails to correct cited deficiencies within the plan of correction.

(iii) Has deficiencies which, after imposition of a lower level penalty amount become sufficiently serious to pose immediate jeopardy.

(e) Procedures for imposition of civil money penalty.

(1) *Notice of intent.*

(i) HCFA sends the laboratory written notice, by certified mail, return receipt requested, of HCFA's intent to impose a civil money penalty.

(ii) The notice includes the following information:

(A) The statutory basis for the penalty.

(B) The proposed daily or per violation amount of the penalty.

(C) The factors (as described in paragraph (d)(1) of this section) that HCFA considered.

(D) The opportunity for responding to the notice in accordance with § 493.1810.

(E) A specific statement regarding the laboratory's appeal rights.

(2) *Appeal rights.*

(i) The laboratory has 60 days from the date of receipt of the notice of intent to request a hearing in accordance with § 493.1844(g).

(ii) If the laboratory requests a hearing, all other pertinent provisions of § 493.1844 apply.

(iii) If the laboratory does not request a hearing, HCFA may reduce the proposed penalty amount by 35 percent.

(f) *Accrual and duration of penalty.*

(1) *Accrual of penalty.*

The civil money penalty begins accruing as follows:

(i) 5 days after notice of intent if there is immediate jeopardy.

(ii) 15 days after notice of intent if there is not immediate jeopardy.

(2) Duration of penalty.

The civil money penalty continues to accrue until the laboratory's condition level compliance is verified or HCFA suspends, limits, or revokes the laboratory's CLIA certificate.

(g) *Computation and notice of total penalty amount.*

(1) *Computation.*

HCFA computes the total penalty amount after the laboratory's compliance is verified or HCFA suspends, limits, or revokes the CLIA certificate but in no event before—

(i) The 60 day period for requesting a hearing has expired without a request or the laboratory has explicitly waived its right to a hearing; or

(ii) The ALJ issues a decision following a hearing requested by the laboratory.

(2) *Notice of penalty amount and due date of penalty.*

The notice includes the following information:

(i) Daily or per violation penalty amount.

(ii) Number of days or violations for which the penalty is imposed.

(iii) Total penalty amount.

(iv) Due date for payment of the penalty.

(h) *Due date for payment of penalty.*

Payment of a civil money penalty is due 15 days of the date of the notice specified in paragraph (g)(2) of this section.

(i) *Collection and settlement.*

(1) *Collection of penalty amounts.*

(i) The determined penalty amount may be deducted from any sums then or later owing by the United States to the laboratory subject to the penalty.

(ii) Interest accrues on the unpaid balance of the penalty, beginning on the due date.

(2) *Settlement.*

HCFA has authority to settle any case at any time before the ALJ issues a hearing decision.

§ 493.1836 State onsite monitoring.

(a) *Application.*

(1) HCFA may require continuous or intermittent monitoring of a plan of correction by the State survey agency to ensure that the laboratory makes the improvements necessary to bring it into compliance with the condition level requirements.

(2) The laboratory must pay the costs of onsite monitoring by the State survey agency.

(i) The costs are computed by multiplying the number of hours of onsite monitoring in the laboratory by the hourly rate negotiated by HCFA and the State.

(ii) The hourly rate includes salary, fringe benefits, travel, and other direct and indirect costs approved by HCFA.

(b) *Procedures.*

Before imposing this sanction, HCFA provides notice of sanction and opportunity to respond in accordance with § 493.1810.

(c) *Duration of Sanction.*

(1) If HCFA imposes onsite monitoring, the sanction continues until HCFA determines that the laboratory

has the capability to ensure compliance with all condition level requirements.

(2) If the laboratory does not correct all deficiencies within 12 months, and a revisit indicates that deficiencies remain, HCFA cancels the laboratory's approval for Medicare payment for its services and notifies the laboratory of its intent to suspend, limit, or revoke the laboratory's CLIA certificate.

(3) If the laboratory still does not correct its deficiencies, the sanction continues until the suspension, limitation, or revocation of the CLIA certificate is effective.

§ 493.1838 Training and technical assistance.

If a laboratory fails to perform acceptably on any specialty or subspecialty of tests, HCFA may require that the laboratory undertake to give training and to obtain the technical assistance necessary to enable the laboratory to meet the requirements of a proficiency testing program.

§ 493.1840 Suspension, limitation, or revocation of the CLIA certificate.

(a) *Basis for adverse action on CLIA certificate.*

HCFA may initiate adverse action to suspend, limit or revoke a laboratory's CLIA certificate if HCFA finds that a laboratory's owner or operator or one of its employees has—

(1) Been guilty of misrepresentation in obtaining a CLIA certificate or a certificate of waiver;

(2) Performed, or represented the laboratory as entitled to perform, a laboratory examination or other procedure which is not within a category of laboratory examinations or other procedures authorized by its CLIA certificate;

(3) Failed to comply with the certificate requirements and performance standards;

(4) Failed to comply with reasonable requests by HCFA for any information or work on materials that HCFA concludes is necessary to determine the laboratory's continued eligibility for its CLIA certificate or continued compliance with performance standards set by HCFA;

(5) Refused a reasonable request by HCFA or the State agency for permission to inspect the laboratory and its operation and pertinent records during the hours that the laboratory is in operation;

(6) Violated or aided and abetted in the violation of any provisions of CLIA and its implementing regulations.

(7) Failed to comply with an alternative sanction imposed under this subpart.

(8) Within the preceding two-year period, owned or operated a laboratory that had its CLIA certificate revoked. (This provision applies only to the owner or operator, not to the laboratory's employees.)

(b) *Notice to OIG.*

HCFA notifies the OIG of any violations under paragraph (a) of this section within 30 days of the determination of the violation.

(c) *Procedures for suspension or limitation.*

(1) *(Basic rule.*

Except as provided in paragraph (c)(2) of this section, HCFA does not suspend or limit a CLIA certificate until after an ALJ hearing decision (as provided in § 493.1844) that upholds suspension or limitation.

(2) *Exceptions.*

HCFA may suspend or limit a CLIA certificate before the ALJ hearing in any of the following circumstances:

(i) The laboratory's deficiencies pose immediate jeopardy.

(ii) The laboratory has refused a reasonable request for information or work on materials.

(iii) The laboratory has refused permission for the State survey agency or other HCFA agent to inspect the laboratory or its operation.

(d) *Revocation.*

General rule.

HCFA may revoke a CLIA certificate following an ALJ hearing without prior suspension or limitation of the certificate.

(e) *Effect of improper referrals.*

If HCFA revokes the CLIA certificate of a laboratory that HCFA determines has given its proficiency testing samples to another laboratory for analysis, HCFA does not consider a reapplication from the first laboratory until at least one year after the effective date of the revocation. HCFA may also impose alternative sanctions against the referring laboratory.

(f) *Effect of exclusion from Medicare.*

If the OIG excludes a laboratory from participation in Medicare because of actions related to the quality of the laboratory, HCFA suspends the laboratory's CLIA certificate for the period during which the laboratory is excluded.

§ 493.1842 Cancellation of Medicare approval.

(a) *Basis for cancellation.*

(1) HCFA cancels a laboratory's approval to receive Medicare payment for its services under any of the following circumstances:

(i) The laboratory fails to submit a plan of correction.

(ii) HCFA determines through a revisit, that the laboratory has failed to correct its deficiencies within the time frames specified in the plan of correction.

(iii) The laboratory does not agree to the conditions specified in § 493.1830 with respect to refund of Medicare payments.

(b) *Notice and opportunity to respond.*

Before canceling a laboratory's approval to receive Medicare payment for its services, HCFA gives the laboratory—

(1) Written notice of the reason for, effective date, and effect of, cancellation;

(2) Opportunity to submit written evidence or other information against cancellation of the laboratory's approval.

This sanction may be imposed before the administrative hearing that may be requested by a laboratory, in accordance with the appeals procedures set forth in § 493.1844.

(c) *Effect of cancellation.*

Cancellation of Medicare approval terminates any Medicare payment sanctions regardless of the time frames originally specified.

§ 493.1844 Appeals procedures.

(a) *Definitions.*

As used in this section, unless the context indicates otherwise—

ALJ stands for Administrative Law Judge.

Laboratory means a laboratory affected by any of the enforcement procedures set forth in this subpart.

Party means a laboratory affected by any of the enforcement procedures set forth in this subpart, or HCFA, or the OIG, as appropriate.

Prospective laboratory means a laboratory that is operating under a provisional certificate, is seeking conversion of a provisional certificate to CLIA certificate, or is seeking a CLIA certificate for the first time or after a previous CLIA certificate has been revoked.

(b) *General rules.*

(1) The provisions of this section apply to all laboratories and prospective laboratories.

(2) The procedures for reconsideration, hearing, Appeals Council review, and judicial review (when available) are those set forth in part 498 of this chapter.

(3) When more than one of the actions specified in paragraph (c) of this section are carried out concurrently, the laboratory has a right to only one hearing on all matters at issue.

(c) *Actions that are initial determinations.*

The following actions are initial determinations and therefore are subject to appeal in accordance with this section:

(1) The suspension, limitation, or revocation of the laboratory's CLIA certificate—

(i) By HCFA because of noncompliance with CLIA requirements; or

(ii) By the OIG because of fraud or abuse or conviction of crimes related to CLIA certification.

(2) The denial of a CLIA certificate or the refusal to convert a provisional certificate to a CLIA certificate.

(3) The imposition of alternative sanctions under this subpart (but not the determination as to which alternative sanction or sanctions to impose).

(4) The denial or cancellation of the laboratory's approval to receive Medicare payment for its services.

(5) The imposition of sanctions by the OIG under part 1001 of this title.

(d) *Actions that are not initial determinations.*

Actions that are not listed in paragraph (c) of this section are not initial determinations and therefore are not subject to appeal under this section. They include, but are not necessarily limited to, the following:

(1) The finding that a laboratory accredited by a HCFA-approved accreditation organization or the State licensing agency is no longer deemed to meet the conditions set forth in subparts G through N of this part.

(2) The finding that a laboratory determined to be in compliance with condition-level requirements has lower-level deficiencies.

(3) The determination not to reinstate a suspended CLIA certificate because the reason for the suspension has not been removed or there is insufficient assurance that the reason will not recur.

(4) The determination as to which alternative sanction or sanctions to impose, including the amount of a civil money penalty to impose per day or per violation.

(5) The denial of approval for Medicare payment for the services of a laboratory that does not have in effect a valid CLIA certificate, provisional certificate, or certificate of waiver.

(6) The determination that a laboratory's deficiencies pose immediate jeopardy.

(7) The amount of the civil money penalty assessed per day or for each violation of Federal requirements.

(e) *Effect of pending appeals.*

(1) *Alternative sanctions.*

The effective date of an alternative sanction (other than a civil money penalty) is not delayed because the laboratory has appealed and the hearing or the hearing decision is pending.

(2) *Suspension, limitation, or revocation of a CLIA certificate.*

(i) *General rule.*

Except as provided in paragraph (e)(2)(ii) of this section, suspension, limitation, or revocation of a CLIA certificate is not effective until after a hearing decision by an ALJ is issued.

(ii) *Exception.*

If HCFA determines that conditions at a laboratory pose immediate jeopardy, the effective date of the suspension or limitation of a CLIA certificate is not delayed because the laboratory has appealed and the hearing or the hearing decision is pending.

(3) *Cancellation of Medicare approval.*

The effective date of the cancellation of a laboratory's approval to receive Medicare payment for its services is not delayed because the laboratory has appealed and the hearing or hearing decision is pending.

(4) *Effect of ALJ decision.*

An ALJ decision is final unless one of the parties requests Appeals Council review within 60 days and the Council reviews the case and issues a revised decision.

(f) *Appeal rights or prospective laboratories.*

(1) *Reconsideration.*

Any prospective laboratory dissatisfied with a denial of a CLIA certificate, or of approval for Medicare payment for its services, or with a refusal to convert its provisional certificate to a CLIA certificate, may request reconsideration in accordance with §§ 498.22 through 498.25 of this chapter.

(2) *Notice of reopening.*

If HCFA or the OIG reopens an initial or reconsidered determination, HCFA or the OIG, as appropriate, gives the prospective laboratory notice of the revised determination in accordance with § 498.32 of this chapter.

(3) *ALJ hearing.*

Any prospective laboratory dissatisfied with reconsidered determination under paragraph (f)(1) of this section or a revised reconsidered determination under § 498.30 of this chapter is entitled to a hearing before an ALJ.

(4) *Appeals Council review.*

Any prospective laboratory that is dissatisfied with an ALJ's decision or dismissal of a hearing request may file a written request for review by the Appeals Council under §§ 498.82 through 498.90 of this chapter.

(g) *Appeal rights of laboratories.*

(1) *ALJ hearing.*

Any laboratory dissatisfied with the suspension, limitation, or revocation of its CLIA certificate, with the imposition of an alternative sanction under this subpart or part 1001 of this title, or with cancellation of the approval to receive Medicare payment for its services, is entitled to a hearing before an ALJ and has 60 days from the notice of sanction to request a hearing.

(2) *Appeals Council review.*

Any laboratory that is dissatisfied with an ALJ's decision or dismissal of a hearing request may file a written request for review by the Appeals Council under §§ 498.82 through 498.90 of this chapter.

(3) *Judicial review.*

Any laboratory dissatisfied with the decision to impose a civil money penalty or to suspend, limit, or revoke its CLIA certificate may, within 60 days after the decision becomes final, file with the U.S. Court of Appeals of the circuit in which the laboratory has its principal place of business, a petition for judicial review.

(h) *Notice of adverse action.*

(1) If HCFA suspends, limits, or revokes a laboratory's CLIA certificate or cancels the approval to receive Medicare payment for its services, HCFA gives notice to the laboratory, and to physicians, providers, suppliers, and other laboratory clients, according to the procedures set forth at § 493.1832. In addition, HCFA notifies the general public each time one of these principal sanctions is imposed.

(2) The notice to the laboratory—

(i) Sets forth the reasons for the determination, the effective date and effect of the determination, and the appeal rights; and

(ii) When the certificate in limited, specifies the specialties or subspecialities of tests that the laboratory is no longer authorized to perform, and that are no longer covered under Medicare.

(3) The notice to other entities includes the same information except the information about the laboratory's appeal rights.

(i) *Effective date of adverse action.*

(1) When the laboratory's deficiencies pose immediate jeopardy, the effective date of the adverse action is at least 5 days after the date of the notice.

(2) When HCFA determines that the laboratory's deficiencies do not pose immediate jeopardy, the effective date of the adverse action is at least 15 days after the date of the notice.

§ 493.1846 Civil action.

If HCFA has reason to believe that continuation of any of a laboratory's activities would constitute a significant hazard to the public health, HCFA may bring suit in a U.S. District Court to enjoin continuation of the specific activity that is causing the hazard or to enjoin the continued operation of the laboratory if HCFA deems it necessary. Upon proper showing, the court shall issue a temporary injunction or restraining order without bond against continuation of the activity.

§ 493.1850 Laboratory registry.

(a) Once a year HCFA and the OIG make available to physicians and to the general public specific information that is useful in evaluating the performance of laboratories, including the following:

(1) A list of laboratories that have been convicted, under Federal or State laws relating to fraud and abuse, false billing, or kickbacks.

(2) A list of laboratories that have had their CLIA certificates suspended, limited, or revoked, and the reason for the adverse actions.

(3) A list or persons who have been convicted of violating CLIA requirements, together with the circumstances of each case and the penalties imposed.

(4) A list of laboratories on which alternative sanctions have been imposed, and the reasons for imposing them, and any evidence of corrective action taken by the laboratory.

(5) A list of laboratories whose accreditation has been withdrawn or revoked and the reasons for the withdrawal or revocation.

(6) A list of laboratories against which HCFA has brought suit under § 493.1846 and the reasons for those actions.

(7) A list of laboratories that have been excluded from participation in Medicare and the reasons for the exclusion.

(b) The laboratory registry is compiled for the calendar year preceding the date the information is made available and includes appropriate explanatory information to aid in the interpretation of the data.

(Catalog of Federal Domestic Assistance No. 13.774, Medicare—Supplementary Medical Insurance)

Dated: July 28, 1990.

Gail R. Wilensky,

Administrator, Health Care Financing Administration.

Approved: November 2, 1990.

Louis W. Sullivan,

Secretary.

[FR Doc. 91-7389 Filed 4-1-91; 8:45 am]

BILLING CODE 4120-01-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 91-67; FCC 91-79]

Low Power Television, Television Translator, Television Booster, FM Translator and FM Booster Stations; Revision of License Renewal Announcement Requirements

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: The Commission adopts a Notice of Proposed Rule Making (Notice) seeking comment on two basic proposals to modify the rules governing the license renewal announcements that low power television (LPTV) stations are required to make. The first proposal would allow LPTV licensees that locally originate programming to omit from their required broadcast announcements any reference to a public inspection file or their prior performance record, and to permit these licensees to make the broadcast of these announcements as close as possible to the times now designated in the Rules. The second proposal would extend the newspaper publication requirement, which now applies to non-originating LPTV licensees, to all LPTV operators, regardless of whether their stations locally originate programming. This action is necessary to correct problems with the text and timing of the broadcast announcements required of locally originating LPTV operators.

DATES: Comments are due by May 20, 1991, and reply comments are due by June 4, 1991.

ADDRESSES: Federal Communications Commission, Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Kathleen O'Brien Ham, Mass Media Bureau, Policy and Rules Division, (202) 632-7792.

SUPPLEMENTARY INFORMATION: 1. This is a synopsis of the Commission's Notice of Proposed Rule Making (Notice) in MM Docket No. 91-67, FCC 91-79, adopted March 14, 1991 and released March 27, 1991.

2. The complete text of this Notice is available for inspection and copying during normal business hours in the FCC Dockets Branch (room 230), 1919 M Street NW., Washington, DC, and also may be purchased from the Commission's copy contractor, Downtown Copy Center, (202) 452-1422, 1919 M Street NW., Washington, DC, 20554.

Synopsis of Further Notice of Proposed Rule Making

3. This proceeding was initiated in response to a petition for rule making, which identified problems with the text and timing of the broadcast announcements required of locally originating low power television (LPTV) operators. Specifically, the problems identified are: (1) That the broadcast announcement text inaccurately suggests that LPTV licensees who locally originate programming are required to maintain a public inspection file containing information about the station's prior performance record, and (2) that the required timing of the broadcasts is impractical because these LPTV licensees do not operate on a set schedule. The Commission seeks comment on two basic proposals to rectify these problems.

4. First, § 73.3580(d) of the Commission's Rules (the broadcast announcement requirement), 47 CFR 73.3580(d), could be amended by allowing LPTV licensees that locally originate programming to (a) omit from their broadcast announcements any reference to a public inspection file or their prior performance record, and (b) make these broadcast announcements as close to the designated times as possible, depending on when they originate their programming.

5. Under the second proposal, the newspaper announcement requirement of § 73.3580(g), 47 CFR 73.3580(g)—which now applies to non-originating LPTV licensees—would apply to all LPTV licensees, regardless of whether their stations originate programming; the broadcast announcement requirement for LPTV licensees would be eliminated altogether. Alternatively, the Commission invites commenters to consider whether LPTV operators who locally originate programming should be allowed to meet their renewal announcement obligation with either an over-the-air broadcast or a newspaper notice.

6. By allowing all LPTV operators to make their required announcements in a newspaper notice rather than with a broadcast notice, the Commission would solve any compliance problem an LPTV operator may have because of its broadcast schedule. Additionally, the use of a newspaper text that complies with the current Rules would alleviate problems posed by the misleading statements in the current broadcast announcement text. For example, an acceptable newspaper text under the Rules—unlike the current broadcast text—need not mention a public file and

thus does not imply that an LPTV licensee has an obligation to maintain such a file.

7. Applying the newspaper announcement requirement of § 73.3580(g) to all LPTV licensees, however, raises a concern. Under the current approach, LPTV licensees that locally originate programming must include in their broadcast announcements a statement that informs the public that it can participate in the renewal process. In contrast, the newspaper announcement requirement does not mention this right to participate. While the newspaper announcement requirement can be expanded to require locally originating LPTV licensees to notify the public of this right, the Commission seeks comment on whether such a requirement should be imposed on the other broadcast services covered by a newspaper announcement obligation—*i.e.*, on LPTV stations that do not locally originate programming, TV translators, TV boosters, FM Translators and FM boosters.

8. The Commission also seeks comment on other related discrepancies or inaccuracies that may exist or arise in its announcement requirements, as well as on any other proposals that would remedy the problems identified with the LPTV license renewal announcement requirements.

Paperwork Reduction Act Statement

9. The proposals contained herein have been analyzed with respect to the Paperwork Reduction Act of 1980 and found, if implemented, to impose a new or modified information collection requirement on the public. Implementation of any new or modified requirement will be subject to approval by the Office of Management and Budget as prescribed by the Act.

Ex Parte Consideration

10. This is a non-restricted proceeding. *See* § 1.1231 of the Commission's Rules, 47 CFR 1.1231, for rules governing permissible *ex parte* contracts.

Comment Information

11. Pursuant to applicable procedures set forth in §§ 1.415 and 1.419 of the Commission's Rules, 47 CFR 1.415, 1.419, interested parties may file comments on or before May 20, 1991, and reply comments on or before June 4, 1991. All relevant and timely comments will be considered by the Commission before final action is taken on this proceeding.

Initial Regulatory Flexibility Act Analysis

12. Reason for Action: This action is taken to simplify and clarify license renewal announcement requirements of low power television operators.

13. Objective of this Action: By this action, the Commission seeks to simplify and rationalize its rules for LPTV license renewal announcements.

14. Legal Basis: Authority for this action is found in section 4, 303, and 403 of the Communications Act of 1934, as amended, 47 U.S.C. 154, 303, 403.

15. Number and Type of Small Entities Affected by the Proposed Rule: There are approximately 750 licensed LPTV operators that could be affected by the proposed rule changes.

16. Reporting, Recordkeeping and other compliance Requirements Inherent in the Proposed Rule: The proposed rule changes may lessen or marginally increase the reporting, recordkeeping and other compliance requirements and may simplify compliance.

17. Federal Rules which Overlap, Duplicate or Conflict with the Proposed Rule: None.

18. Any Significant Alternative Minimizing Impact on Small Entities and Consistent with the Stated Objective of the Action: We are seeking comment to determine if any significant alternatives exist.

19. As required by section 603 of the Regulatory Flexibility Act, the Commission has prepared the above Initial Regulatory Flexibility Analysis (IRFA) of the expected impact on small entities of the proposals suggested in this document. Written public comments are requested on the IRFA. These comments must be filed in accordance with the same filing deadlines as comments on the rest of the Notice, but they must have a separate and distinct heading designating them as responses to the Regulatory Flexibility Analysis. The Secretary is directed to send a copy of this Notice, including the IRFA, to the Chief Counsel for Advocacy of the Small Business Administration in accordance with paragraph 603(a) of the Regulatory Flexibility Act (Pub. L. No. 96–354, 94 Stat. 1164, 5 U.S.C. 601 *et seq.*, (1981)).

20. Accordingly, It is Ordered That pursuant to sections 4, 303 and 403 of the Communications Act of 1934, as amended, 47 U.S.C. 154, 303, 403, this Notice is Adopted.

List of Subjects

47 CFR Part 73

Television broadcasting.

Federal Communications Commission.

William F. Caton,

Acting Secretary.

[FR Doc. 91–7603 Filed 4–1–91; 8:45 am]

BILLING CODE 6712–01–M

Notices

Federal Register
Vol. 56, No. 63
Tuesday, April 2, 1991

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Federal Grain Inspection Service

Request for Designation Applicants to Provide Official Services in the Geographic Areas Currently Assigned to the Louisville (KY), Minot (ND), and Tri-State (OH) Agencies

AGENCY: Federal Grain Inspection Service (Service), USDA.
ACTION: Notice.

SUMMARY: Pursuant to the provisions of the U.S. Grain Standards Act, as Amended (Act), official agency designations shall terminate not later than triennially and may be renewed according to the criteria and procedures prescribed in the Act. This notice announces that the designation of three agencies will terminate, according to the Act, and requests applications from parties interested in being designated as the official agency to provide official services in the geographic areas currently assigned to these specified agencies. The official agencies are Louisville Grain Inspection Services, Inc. (Louisville), Minot Grain Inspection, Inc. (Minot), and Tri-State Grain Inspection Service, Inc. (Tri-State).

DATES: Applications must be postmarked on or before May 2, 1991.

ADDRESSES: Applications must be submitted to Homer E. Dunn, Chief, Review Branch, Compliance Division, FGIS, USDA, Room 1647 South Building, P.O. Box 96454, Washington, DC 20090–6454. All applications received will be made available for public inspection at this address located at 1400 Independence Avenue, SW., during regular business hours.

FOR FURTHER INFORMATION CONTACT: Homer E. Dunn, telephone 202–447–8525.

SUPPLEMENTARY INFORMATION:

This action has been reviewed and determined not to be a rule or regulation as defined in Executive Order 12291 and Departmental Regulation 1512–1; therefore, the Executive Order and Departmental Regulation do not apply to this action.

Section 7(f)(1) of the Act specifies that the Administrator of the Service is authorized, upon application by any qualified agency or person, to designate such agency or person to provide official services after a determination is made that the applicant is better able than any other applicant to provide official services in an assigned geographic area.

Louisville, located at 1400 Oldham Street, Louisville, KY 40201, Minot, located at 1804 Valley Street, Minot, ND 58702, and Tri-State, located at 3906 River Road, Cincinnati, OH 45204, were designated under the Act on October 1, 1988, as official agencies to provide official inspection services.

The designations of these official agencies terminate on September 30, 1991. Section 7(g)(1) of the Act states that designations of official agencies shall terminate not later than triennially and may be renewed according to the criteria and procedures prescribed in the Act.

The geographic area presently assigned to Louisville, in the States of Indiana and Kentucky, pursuant to section 7(f)(2) of the Act, which may be assigned to the applicant selected for designation is as follows: Clark, Crawford, Floyd, Harrison, Jackson, Jennings, Jefferson, Lawrence, Martin, Orange, Scott, and Washington Counties, Indiana. Allen, Anderson, Barren, Breckinridge, Bullitt, Butler, Carroll, Edmonson, Fayette, Franklin, Grayson, Hardin, Hart, Henry, Jefferson, Jessamine, Larue, Meade, Nelson, Oldham, Scott, Shelby, Simpson, Spencer, Trimble, Warren, and Woodford Counties, Kentucky.

The geographic area presently assigned to Minot, in the State of North Dakota, pursuant to section 7(f)(2) of the Act, which may be assigned to the applicant selected for designation is as follows: Bounded on the North by the North Dakota State line east to State Route 14;

Bounded on the East by State Route 14 south to State Route 5; State Route 5 east to State Route 60; State Route 60 southeast to State Route 3; State Route 3 south to State Route 200;

Bounded on the South by State Route 200 west to State Route 41; State Route 41 south to U.S. Route 83; U.S. Route 83 northwest to State Route 200; State Route 200 west to U.S. Route 85; U.S. Route 85 south to Interstate 94; Interstate 94 west to the North Dakota State line; and

Bounded on the West by the North Dakota State line. The following locations, outside of the above contiguous geographic area, are part of this geographic area assignment: Farmers Feed & Grain, and Farmers Union, both in Harvey, Wells County (located inside Grand Forks Grain Inspection Department's area); and Farmers Elevator & Mercantile Co., and Coast Trading Company, both in Underwood, and Merle A. Larson Elevator, Inc., Washburn, all in McLean County (located inside Grain Inspection Inc.'s area).

The geographic area presently assigned to Tri-State, in the States of Indiana, Kentucky, and Ohio, pursuant to section 7(f)(2) of the Act, which may be assigned to the applicant selected for designation is as follows: Dearborn, Decatur, Franklin, Ohio, Ripley, Rush (south of State Route 244), and Switzerland Counties, Indiana.

Bath, Boone, Bourbon, Bracken, Campbell, Clark, Fleming, Gallatin, Grant, Harrison, Kenton, Lewis (west of State Route 59), Mason, Montgomery, Nicholas, Owen, Pendleton, and Robertson Counties, Kentucky. In Ohio:

Bounded on the North by the northern Preble County line east; the western and northern Miami County lines east to State Route 296; State Route 296 east to State Route 560; State Route 560 south to the Clark County line; the northern Clark County line east to U.S. Route 68;

Bounded on the East by U.S. Route 68 south to U.S. Route 22; U.S. Route 22 east to State Route 73; State Route 73 southeast to the Adams County line; the eastern Adams County line;

Bounded on the South by the southern Adams, Brown, Clermont, and Hamilton County lines; and

Bounded on the West by the western Hamilton, Butler, and Preble County lines.

Interested parties, including Louisville, Minot, and Tri-State, are hereby given opportunity to apply for official agency designation to provide the official services in the geographic areas, as specified above, under the provisions of section 7(f) of the Act and § 800.196(d) of the regulations issued thereunder. Designation in the specified

geographic areas is for the period beginning October 1, 1991, and ending September 30, 1994. Parties wishing to apply for designation should contact the Compliance Division, at the address listed above for forms and information.

Applications and other available information will be considered in determining which applicant will be designated to provide official services in a geographic area.

Authority: Pub. L. 94–582, 90 Stat. 2867, as amended(7 U.S.C. 71 *et seq.*).

Dated: March 15, 1991.

J.T. Abshier,

Director, Compliance Division.

[FR Doc. 91–7637 Filed 4–1–91; 8:45 am]

BILLING CODE 3410–EN–F

Designation Renewal of the Lincoln (NE) and Omaha (NE) Agencies

AGENCY: Federal Grain Inspection Service (Service), USDA.

ACTION: Notice.

SUMMARY: This notice announces the designation renewal of Lincoln Inspection Service, Inc. (Lincoln), and Omaha Grain Inspection Service, Inc. (Omaha), as official agencies responsible for providing official services under the U.S. Grain Standards Act, as Amended (Act), in the Lincoln and Omaha, Nebraska, geographic areas.

EFFECTIVE DATE: May 1, 1991.

ADDRESSES: Homer E. Dunn, Chief, Review Branch, Compliance Division, FGIS, USDA, Room 1647 South Building, P.O. Box 96454, Washington, DC 20090-6454.

FOR FURTHER INFORMATION CONTACT: Homer E. Dunn, telephone 202-447-8525.

SUPPLEMENTARY INFORMATION:

This action has been reviewed and determined not to be a rule or regulation as defined in Executive Order 12291 and Departmental Regulation 1512-1; therefore, the Executive Order and Departmental Regulation do not apply to this action.

In the November 1, 1990, **Federal Register** (55 FR 46088), the Service announced that Lincoln's and Omaha's designations terminate on April 30, 1991, and requested applications for official agency designation to provide official services within the specified geographic areas. Applications were to be postmarked by December 3, 1990. Lincoln and Omaha were the only applicants, and each applied for the entire area currently assigned to that agency.

The Service announced the applicant names in the January 2, 1991, **Federal Register** (56 FR 63) and requested comments on the applicants for designation. Comments were to be postmarked by February 19, 1991. No comments were received.

The Service evaluated all available information regarding the designation criteria in section 7(f)(1)(A) of the Act; and in accordance with section 7(f)(1)(B), determined that Lincoln and Omaha are able to provide official services in the geographic areas for which the Service is renewing their designations.

Effective May 1, 1991, and terminating April 30, 1994, Lincoln and Omaha are designated to provide official inspection services in the geographic areas specified in the November 1 **Federal Register.**

Interested persons may obtain official services by contacting Lincoln at 402–435–4386 and Omaha at 402–341–6739.

Authority: Pub. L. 94–582, 90 Stat. 2867, as amended(7 U.S.C. 71 *et seq.*)

Dated: March 15, 1991.

J.T. Abshier,

Director, Compliance Division.

[FR Doc. 91–7636 Filed 4–1–91; 8:45 am]

BILLING CODE 3410–EN–F

Request for Comments on the Designation Applicant in the Geographic Area Currently Assigned to the Jamestown (ND) Agency

AGENCY: Federal Grain Inspection Service (Service).

ACTION: Notice.

SUMMARY: This notice requests comments from interested parties on the applicant for official agency designation in the geographic area currently assigned to Grain Inspection, Inc. (Jamestown).

DATES: Comments must be postmarked on or before May 17, 1991.

ADDRESSES: Comments must be submitted in writing to Homer E. Dunn, Chief, Review Branch, Compliance Division, FGIS, USDA, Room 1647 South Building,P.O. Box 96454, Washington, DC 20090-6454.SprintMail users may respond to [HDUNN/FGIS/USDA].Telecopier users may send responses to the automatic telecopier machine at 202-447-4628, attention: Homer E. Dunn.All comments received will be made available for public inspection at the above address located at 1400 Independence Avenue, SW., during regular business hours (7 CFR 1.27(b)).

FOR FURTHER INFORMATION CONTACT: Homer E. Dunn, telephone (202) 447-8525.

SUPPLEMENTARY INFORMATION:

This action has been reviewed and determined not to be a rule or regulation as defined in Executive Order 12291 and Departmental Regulation 1512–1; therefore, the Executive Order and Departmental Regulation do not apply to this action.

The Service requested applications for official agency designation to provide official services within the specified geographic area in the February 6, 1991, **Federal Register** (56 FR 4787). Applications were to be postmarked by March 8, 1991. Jamestown, the only applicant, applied for designation renewal in the entire area currently assigned to that agency.

This notice provides interested persons the opportunity to present their comments concerning the applicant for designation. Commenters are encouraged to submit reasons for support or objection to this designation action and include pertinent data to support their views and comments. All comments must be submitted to the Compliance Division, at the above address.

Comments and other available information will be considered in making a final decision. Notice of the final decision will be published in the **Federal Register**, and the applicant will be informed of the decision in writing.

Authority: Pub. L. 94–582, 90 Stat. 2867, as amended(7 U.S.C. 71 *et seq.*)

Dated: March 15, 1991.

J.T. Abshier,

Director, Compliance Division.

[FR Doc. 91–7635 Filed 4–1–91; 8:45 am]

BILLING CODE 3410–EN–F

Forest Service

Newspapers Used for Publication of Legal Notice of Appealable Decisions for Pacific Southwest Region, California

AGENCY: Forest Service, USDA.

ACTION: Notice.

SUMMARY: This notice lists the newspapers that will be used by all ranger districts, forests, and the Regional Office of the Pacific Southwest Region to publish legal notice of all decisions subject to appeal under 36 CFR part 217. This action is necessary to implement the Secretary of Agriculture's interim rule amending the Forest Service administrative appeal procedures, which was signed on February 26, 1990 and was published in the **Federal Register** on March 6, 1990. The intended effect of this action is to inform interested

members of the public which newspapers will be used to publish legal notices of decisions, thereby allowing them to receive constructive notice of a decision, to provide clear evidence of timely notice, and to achieve consistency in administering the appeals process.

DATES: Publication of legal notices in the listed newspapers will begin with decisions subject to appeal that are made on or after April 5, 1990. The list of newspapers will remain in effect until October 1991 when another notice will be published in the Federal Register.

FOR FURTHER INFORMATION CONTACT: KJ Silverman, Regional Appeals Coordinator, Pacific Southwest Region, 630 Sansome Street, San Francisco, CA 94111, phone: (415) 705–2554.

SUPPLEMENTARY INFORMATION: On February 26, 1990, the Secretary of Agriculture signed an interim rule amending the administrative appeal procedures 36 CFR part 217 of the Forest Service to require publication of legal notice in a newspaper of general circulation of all decisions subject to appeal. This newspaper publication of notices of decisions is in addition to direct notice to those who have requested notice in writing and to those known to be interested and affected by a specific decision.

The legal notice is to identify: The decision by title and subject matter; the date of the decision; the name and title of the official making the decision; and how to obtain copies of the decision. In addition, the notice is to state the date the appeal period begins is the day following publication of the notice.

In addition to the principal newspaper listed for each unit, some Forest Supervisors and District Rangers have listed newspapers providing additional notice of their decisions. The timeframe for appeal shall be based on the date of publication of the notice in the first (principal) newspaper listed for each unit.

The newspapers to be used are as follows:

Pacific Southwest Regional Office

Pacific Southwest Regional Forester decisions:

Sacramento Bee, Sacramento, California

Angeles National Forest

Angeles Forest Supervisor decisions:

Los Angeles Times, Los Angeles, California

Arroyo-Seco District Ranger decisions:

Pasadena Star News, Pasadena County, Los Angeles, California

Newspaper providing additional notice of Arroyo-Seco decisions:

Daily News, Los Angeles, California

Mount Baldy District Ranger decisions:

Inland Valley Bulletin, Los Angeles, California

Newspaper providing additional notice of Mount Baldy decisions:

San Gabriel Valley Tribune, Eastern Sun Gabriel County, California

Saugus District Ranger decisions:

Daily News, Los Angeles, California

Tujunga District Ranger decisions:

Daily News, Los Angeles, California

Valyermo District Ranger decisions:

Antelope Valley Press, Los Angeles, California

Cleveland National Forest

Cleveland Forest Supervisor decisions:

San Diego Union, San Diego, California

Descanso District Ranger decisions:

San Diego Union, San Diego, California

Palomar District Ranger decisions:

San Diego Union, San Diego, California

Newspaper providing additional notice of Palomar decisions:

Riverside Press-Enterprise, Riverside, California

Trabuco District Ranger decisions:

Orange County Register, Santa Ana, California

Newspaper providing additional notice of Trabuco decisions:

Riverside Press-Enterprise, Riverside, California

Eldorado National Forest

Eldorado Forest Supervisor decisions:

Mountain Democrat, Placerville, California

Amador District Ranger decisions:

Mountain Democrat, Placerville, California

Georgetown District Ranger decisions:

Mountain Democrat, Placerville, California

Pacific District Ranger decisions:

Mountain Democrat, Placerville, California

Placerville District Ranger decisions:

Mountain Democrat, Placerville, California

Inyo National Forest

Inyo Forest Supervisor decisions:

Inyo Register, Bishop, California

Mammoth District Ranger decisions:

Inyo Register, Bishop, California

Mono Lake District Ranger decisions:

Inyo Register, Bishop, California

Mount Whitney District Ranger decisions:

Inyo Register, Bishop, California

White Mountain District Ranger decisions:

Inyo Register, Bishop, California

Klamath National Forest

Klamath Forest Supervisor decisions:

Siskiyou Daily News, Yreka, California

Happy Camp District Ranger decisions:

Siskiyou Daily News, Yreka, California

Goosenest District Ranger decisions:

Siskiyou Daily News, Yreka, California

Oak Knoll District Ranger decisions:

Siskiyou Daily News, Yreka, California

Salmon River District Ranger decisions:

Siskiyou Daily News, Yreka, California

Scott River District Ranger decisions:

Siskiyou Daily News, Yreka, California

Ukonom District Ranger decisions:

Siskiyou Daily News, Yreka, California

Lake Tahoe Basin

Lake Tahoe Basin Forest Supervisor decisions:

Tahoe Daily Tribune, So. Lake Tahoe, El Dorado County, California

Lassen National Forest

Lassen Forest Supervisor decisions:

Lassen County Times, Susanville, Lassen County, California

Almanor District Ranger decisions:

Chester Progressive, Plumas County, California

Eagle Lake District Ranger decisions:

Lassen County Times, Susanville, Lassen County, California

Hat Creek District Ranger decisions:

Intermountain News, Burney, Shasta County, California

Newspaper providing additional notice of Hat Creek decisions:

Mountain Echo, Fall River Mills, Shasta County, California

Los Padres National Forest

Los Padres Forest Supervisor decisions:

Santa Barbara News Press, Santa Barbara, California

Ojai District Ranger decisions:

Star Free Press, Ventura, California

Monterey District Ranger decisions:

Salinas Californian, Monterey, California

Mount Pinos District Ranger decisions:
The Bakersfield Californian, Kern, California
Santa Barbara District Ranger decisions:
Santa Barbara News Press, Santa Barbara, California
Santa Lucia District Ranger decisions:
Telegram Tribune, San Luis Obispo, California

Mendocino National Forest

Mendocino Forest Supervisor decisions:
Chico Enterprise-Record, Chico, California
Corning District Ranger decisions:
Chico Enterprise-Record, Chico, California
Covelo District Ranger decisions:
Ukiah Daily Journal, Ukiah, California
Stonyford District Ranger decisions:
Chico Enterprise-Record, Chico, California
Upper Lake District Ranger decisions:
Ukiah Daily Journal, Ukiah, California
Chico Tree Improvement Center Director decisions:
Chico Enterprise-Record, Chico, California

Modoc National Forest

Modoc Forest Supervisor decisions:
Modoc County Record, Alturas, Modoc County, California
Big Valley District Ranger decisions:
Modoc County Record, Alturas, Modoc County, California
Devil's Garden District Ranger decisions:
Modoc County Record, Alturas, Modoc County, California
Doublehead District Ranger decisions:
Modoc County Record, Alturas, Modoc County, California
Newspaper providing additional notice of Doublehead decisions:
Herald News, Klamath Falls, Oregon
Warner Mountain District Ranger decisions:
Modoc County Record, Alturas, Modoc County, California

Plumas National Forest

Plumas Forest Supervisor decision:
Feather River Bulletin, Quincy, California
Beckwourth District Ranger decisions:
Portola Reporter, Portola, California
Greenville District Ranger decisions:
Indian Valley Record, Greenville, California
La Porte District Ranger decisions:
Oroville Mercury Register, Oroville, California
Milford District Ranger decisions:
Lassen County Times, Susanville, Lassen County, California
Oroville District Ranger decisions:
Oroville Mercury Register, Oroville, California
Quincy District Ranger decisions:
Feather River Bulletin, Quincy, California

San Bernardino National Forest

San Bernardino Forest Supervisor decisions:
San Bernardino Sun, San Bernardino, California
Arrowhead District Ranger decisions:
Mountain News, Blue Jay, California
Big Bear District Ranger decisions:
Big Bear Life and Grizzly, Big Bear, California
Cajon District Ranger decisions:
San Bernardino Sun, San Bernardino, California
San Gorgonio District Ranger decisions:
Yucaipa News Mirror, Yucaipa, California
San Jacinto District Ranger decisions:
Idyllwild Town Crier, Idyllwild, California

Sequoia National Forest

Sequoia Forest Supervisor decisions:
Porterville Recorder, Porterville, California
Cannell Meadow District Ranger decisions:
Porterville Recorder, Porterville, California
Greenhorn District Ranger decisions:
Porterville Recorder, Porterville, California
Hot Springs District Ranger decisions:
Porterville Recorder, Porterville, California
Hume Lake District Ranger decisions:
Porterville Recorder, Porterville, California
Tule River Ranger District decisions:
Porterville Recorder, Porterville, California

Shasta-Trinity National Forest

Shasta-Trinity National Forest decisions:
Record Searchlight, Redding, Shasta County, California
Big Bar District Ranger decisions:
Record Searchlight, Redding, Shasta County, California
Hayfork District Ranger decisions:
Record Searchlight, Redding, Shasta County, California
McCloud District Ranger decisions:
Record Searchlight, Redding, Shasta County, California
Mount Shasta District Ranger decisions:
Record Searchlight, Redding, Shasta County, California
Shasta Lake District Ranger decisions:
Record Searchlight, Redding, Shasta County, California
Weaverville District Ranger decisions:
Record Searchlight, Redding, Shasta County, California
Yolla Bolla District Ranger decisions:
Record Searchlight, Redding, Shasta County, California

Sierra National Forest

Sierra Forest Supervisor decisions:
Fresno Bee, Fresno, California
Kings River District Ranger decisions:
Fresno Bee, Fresno, California
Pineridge District Ranger decisions:
Fresno Bee, Fresno, California
Mariposa District Ranger decisions:
Fresno Bee, Fresno, California
Minarets District Ranger decisions:
Fresno Bee, Fresno, California

Six Rivers National Forest

Six Rivers Forest Supervisor decisions:
Times Standard, Eureka, California
Gasquet District Ranger decisions:
Del Norte Triplicate, Crescent City, California
Lower Trinity District Ranger decisions:
The Kourier, Willow Creek, California
Mad River District Ranger decisions:
Times Standard, Eureka, California
Orleans District Ranger decisions:
The Kourier, Willow Creek, California

Stanislaus National Forest

Stanislaus Forest Supervisor decisions:
The Union Democrat, Sonora, California
Calaveras District Ranger decisions:
The Union Democrat, Sonora, California
Groveland District Ranger decisions:
The Union Democrat, Sonora, California
Mi-Wok District Ranger decisions:
The Union Democrat, Sonora, California
Summit District Ranger decisions:
The Union Democrat, Sonora, California

Tahoe National Forest

Tahoe Forest Supervisor decisions:

Grass Valley Union, Grass Valley, California

Downieville District Ranger decisions:

Mountain Messenger, Downieville, California

Foresthill District Ranger decisions:

Auburn Journal, Auburn, California

Nevada City District Ranger decisions:

Grass Valley Union, Grass Valley, California

Sierraville District Ranger decisions:

Mountain Messenger, Downieville, California

Newspapers providing additional notice of Sierraville decisions:

Sierra Booster, Loyalton, California

Portola Recorder, Portola, California

Truckee District Ranger decisions:

Sierra Sun, Truckee, Nevada County, California

Newspaper providing additional notice of Truckee decisions:

Tahoe World, Tahoe City, Placer County, California

Dated: March 26, 1991.

Lawrence Bembry,

Deputy Regional Forester.

[FR Doc. 91-7654 Filed 4-1-91; 8:45 am]

BILLING CODE 3410-11-M

Environmental Impact Statement for the Alaska Pulp Corporation Long-Term Timber Sale, North and East Kuiu Project Area; Tongass National Forest, Alaska

AGENCY: USDA, Forest Service.

ACTION: Revised notice of intent to prepare an environmental impact statement.

On June 15, 1990, a Notice of Intent (NOI) to prepare an Environmental Impact Statement (EIS) was published in the **Federal Register** (Vol. 55, No. 116, Page 24293). The EIS was to evaluate a proposal to make available National Forest timber to contribute to fulfilling the requirements of the Long-Term Timber Sale Contract between Alaska Pulp Corporation (APC) and the USDA Forest Service, contract number 12-11-010-1545. The proposed action was road construction and timber harvesting in that portion of the APC contract area administered by the Stikine Area of the Tongass National Forest, specifically, Management Areas S04 (North Kuiu) and S09 (East Kuiu) and a small portion of S06 (Tebenkof) on Kuiu Island in Southeast Alaska.

The initial NOI included timber volume and road construction activities to keep a timber sale operator in work for two operating seasons, approximately 80 MMBF of timber and approximately 25 to 50 miles of road construction. This revised NOI increases the amount of timber volume that might be considered in the alternatives to as much as 120 MMBF net sawlog volume. This change is due in part to the Tongass Timber Reform Act (TTRA) which was signed into law on November 28, 1990.

The TTRA states that "all timber offered under each contract be substantially harvested within three years." Three years worth of volume for the Rowan Bay operation would be approximately 120 MMBF net sawlog volume. The proposed action is expanded to provide flexibility of meeting this amount of volume in a single offering.

A Draft Environmental Impact Statement is projected for issuance about July 30, 1991, and issuance of the Final Environmental Impact Statement is still projected for December, 1991. All other information presented in the June 15, 1990 NOI is still valid.

DATES: Comments concerning the proposed change in project scope should be received in writing by May 13, 1991. They should be sent to Michael Condon, ID Team Leader, Supervisor's Office, Stikine Area, Tongass National Forest, P.O. Box 309, Petersburg, Alaska 99833, phone (907) 772-3841.

The responsible official for the decision is Michael A. Barton, Regional Forester, Alaska Region, Juneau, Alaska.

Dated: March 19, 1991.

Robert W. Williams,

Deputy Regional Forester.

[FR Doc. 91-7678 Filed 4-1-91; 8:45 am]

BILLING CODE 3410-11-M

DEPARTMENT OF COMMERCE

International Trade Administration

[Application No. 90-00017]

Export Trade Certificate of Review

ACTION: Notice of Issuance of an Export Trade Certificate of Review.

SUMMARY: The Department of Commerce has issued an Export Trade Certificate of Review to the Brass and Bronze Ingot Manufacturers (BBIM). This notice summarizes the conduct for which certification has been granted.

FOR FURTHER INFORMATION CONTACT: George Muller, Director, Office of Export Trading Company Affairs, International Trade Administration, (202) 377-5131. This is not a toll-free number.

SUPPLEMENTARY INFORMATION: Title III of the Export Trading Company Act of 1982 (15 U.S.C. 4001-21) authorizes the Secretary of Commerce to issue Export Trade Certificates of Review. The regulations implementing Title III are found at 15 CFR part 325 (1990) (50 FR 1804, January 11, 1985).

The Office of Export Trading Company Affairs is issuing this notice pursuant to 15 CFR 325.6(b), which requires the Department of Commerce to publish a summary of a Certificate in the **Federal Register**. Under section 305(a) of the Act and 15 CFR 325.11(a), any person aggrieved by the Secretary's determination may, within 30 days of the date of this notice, bring an action in any appropriate district court of the United States to set aside the determination on the ground that the determination is erroneous.

Description of Certified Conduct

Export Trade

Products

Brass and bronze alloys, copper or copper-based scrap, and slag, drosses, skimmings, sludges, and particulates produced in the production of brass and bronze alloys.

Services

Design, consulting, testing, and training with respect to Products and related manufacturing processes, and licensing of Technology Rights concerning Products and related processes.

Technology Rights

Patents, trademarks, service marks, copyrights, trade secrets, and know-how.

Export Trade Facilitation Services (as They Relate to the Export of Products, Services, and Technology Rights)

Consulting; international market research; marketing and trade promotion; trade show participation; insurance; legal assistance; services related to compliance with customs requirements; transportation; trade documentation and freight forwarding; communication and processing of export orders and sales leads; warehousing; foreign exchange; financing; liaison with U.S. and foreign government agencies,

trade associations, and banking institutions; and taking title to goods.

Export Markets

The Export Markets include all parts of the world, except (a) The United States (the fifty states of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, American Samoa, Guam, the Commonwealth of the Northern Mariana Islands, and the Trust Territory of the Pacific Islands), and (b) Canada.

Members (in Addition to Applicant)

W.J. Bullock, Inc.; Colonial Metals, Co.; The Federal Metal Company; National Metals, Inc.; The River Smelting & Refining Co.; I. Schumann & Company; and Sipi Metals Corporation.

Export Trade Activities and Methods of Operation

To engage in Export Trade in the Export Markets, BBIM and the Members may undertake the following activities:

1. BBIM, on behalf of the Members, may:

(a) Act as a clearinghouse in receiving sales leads and orders for Products and Services in the Export Markets;

(b) Aid in the preparation of bids and contracts in the Export Markets, including making arrangements for barter trade;

(c) Assist Members in setting up joint bids for export projects by making distribution to Members of bid requirements, bidding dates, and purchase specifications as received from the Export Markets; and

(d) Provide Members or other Suppliers the benefit of any Export Trade Facilitation Service to facilitate the export of Products and Services to the Export Markets. This may be accomplished by BBIM itself, or by agreement with the members or other parties.

2. BBIM and/or one or more of the Members may:

(a) Engage in joint negotiation, joint offering or bidding, or other joint selling arrangements, including barter arrangements, for Products and Services in the Export Markets and allocate sales resulting from such arrangements among the Members;

(b) Establish export prices and terms of sale for sales of Products and Services by the Members in the Export Markets, and allocate export markets and/or export customers among themselves;

(c) Discuss and reach agreements relating to specifications and standardization of Products and Services for the Export Markets;

(d) Refuse to quote prices for, or to market or sell in, the Export Markets with respect to Products and Services;

(e) Solicit and negotiate with non-Member Suppliers to sell their Products and Services or to offer their Export Trade Facilitation Services through the certified activities of BBIM and/or the Members; provided, however, that BBIM and/or one or more of the Members shall make such solicitations or offers to non-Member brass or bronze ingot manufacturers on a transaction-by-transaction basis only, and then only when the Members are unable or not reasonably able to supply, at a price competitive under the circumstances, the requisite Products, Services or Export Trade Facilitation Services for such transaction; provided further that BBIM and/or the Members may exchange only such information with such non-Member brass or bronze ingot manufacturers as is reasonably required by such transaction;

(f) Enter into agreements wherein BBIM and/or the Members agree to act in certain Export Markets as the Members' exclusive or non-exclusive Export Intermediary for Products or Services in the Export Markets. In exclusive Export Intermediary agreements, (i) BBIM or the Member(s) acting as an exclusive Export Intermediary may agree not to represent any other Supplier in the relevant Export Market, and (ii) Members may agree that they will export in the relevant Export Market only through BBIM or the Member(s) acting as exclusive intermediary, and that they will not export independently to the relevant Export Market, either directly or through any other Export Intermediary. BBIM and/or the Members when acting as an exclusive Export Intermediary shall not unreasonably refuse to supply its services on non-discriminatory terms to those Members that are parties to the exclusive arrangements and which request such services;

(g) Agree that BBIM and/or the Members will export in one or more Export Markets only directly, through other Members, and/or through designated Export Intermediaries;

(h) Cooperate in responding to attempted boycotts, refusals to deal, or other unfair trade practices by buyers of Products or Services in Export Markets against any Member, including cooperation in seeking relief before the U.S. Departments of Commerce and Justice, the Federal Trade Commission, the Office of the United States Trade Representative, and/or the courts and administrative agencies of other countries; and

(i) Bring together from time to time groups of Members to plan and discuss how to fulfill the Product and Service requirements of specific export customers or Export Markets.

3. BBIM and/or one or more of the Members may meet to exchange and discuss the following types of information:

(a) Information about sales and marketing efforts in the Export Markets, activities and opportunities for sales of Products and Services in the Export Markets, selling strategies for the Export Markets, pricing in the Export Markets, projected demand in the Export Markets, customary terms of sale in the Export Markets, prices and availability of Products and Services from non-Member Suppliers for sales in the Export Markets, and specifications for Products and Services by customers in the Export Markets;

(b) Information about the quality, export prices, quantity, ability to supply Products in quantities sufficient to meet an export sales opportunity, source, and delivery dates of Products and Services available from Members or non-Members for export, including for use in barter transactions; provided, however, that exchanges of information and discussions as to export prices, quantity, ability to supply Products in quantities sufficient to meet an export sales opportunity, source, and delivery dates must be on a transaction-by-transaction basis only and shall relate solely to Products and Services intended for or available for export and involve only those Members who are participating or have a genuine interest in participating in such transaction;

(c) Information about terms and conditions of contracts for sales (including barter transactions) in the Export Markets to be considered and/or bid on by BBIM and the Members;

(d) Information about joint bidding, selling, or servicing arrangements for the Export Markets and allocation of sales resulting from such arrangements among the Members;

(e) Information about expenses specific to exporting to and within the Export Markets, including, without limitation, transportation, intermodal shipments, insurance, inland freight to port, port storage, commissions, export sales documentation, financing, customs, duties, and taxes;

(f) Information about U.S. and foreign legislation and regulations affecting sales in the Export Markets; and

(g) Information about BBIM's or the Members' export operations, including, without limitation, sales and distribution networks established by BBIM or the

Members in the Export Markets, and prior export sales by Members (including export price information).

A copy of the Certificate will be kept in the International Trade Administration's Freedom of Information Records Inspection Facility, room 4102, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington, DC 20230.

Dated: March 22, 1991.

George Muller,

Director, Office of Export Trading Company Affairs.

[FR Doc. 91-7595 Filed 4-1-91; 8:45 am]

BILLING CODE 3510-DR-M

President's Export Council; Meeting

AGENCY: International Trade Administration, Commerce.

ACTION: Notice of a closed meeting.

SUMMARY: The Foreign Market Development Subcommittee of the President's Export Council is holding its first meeting to discuss ways to promote the development of trade promotion programs in various world markets; advise on trade policy issues relating to those markets; and discuss issues of trade cooperation throughout the Americas. Briefings and discussions will cover opportunities for U.S. business and policy issues in East Asian countries, negotiations on the North American Free Trade Agreements, as well as other sensitive matters properly classified under Executive Order 12356. The President's Export Council was established on December 20, 1973, and reconstituted May 4, 1979, to advise the President on matters relating to U.S. export trade.

A Notice of Determination to close meetings or portions of meetings of the Council to the public on the basis of 5 U.S.C. 552b(c)(1) has been approved in accordance with the Federal Advisory Committee Act. A copy of the notice is available for public inspection and copying in the Central Reference and Records Inspection Facility, room 6628, U.S. Department of Commerce (202) 377-4217.

DATES: April 15, 1991, from 9:30 a.m.-1 p.m.

ADDRESSES: Main Commerce Building, room 4830, 14th Street and Constitution Avenue, NW., Washington, DC 20230.

FOR FURTHER INFORMATION CONTACT: Annette Richard, President's Export Council, room 3215, Washington, DC 20230 (202) 377-1125.

Dated: March 27, 1991.

Wendy H. Smith,

Staff Director and Executive Secretary, President's Export Council.

[FR Doc. 7619 Filed 4-1-91; 8:45 am]

BILLING CODE 3510-DR-M

Minority Business Development Agency

Business Development Center Applications: Washington, DC

AGENCY: Minority Business Development Agency, Commerce.

ACTION: Notice.

SUMMARY: The Minority Business Development Agency (MBDA) announces that it is soliciting competitive applications under its Minority Business Development Center (MBDC) program to operate on MBDC for approximately a 3 year period, subject to the availability of funds. The cost of performance for the first 12 months is estimated at $460,500 in Federal funds and a minimum of $81,265 in non-Federal contributions for the budget period August 1, 1991, to July 31, 1992. Cost-Sharing contributions may be in the form of cash contributions, client fees for services, in-kind contributions, or combinations thereof. The MBDC will operate in the Washington, DC geographic service area.

The funding instrument for the MBDC will be a cooperative agreement. Competition is open to individuals, non-profit and for-profit organizations, state and local governments, American Indian tribes and educational institutions.

The MBDC program is designed to provide business development services to the minority business community for the establishment and operation of viable minority businesses. To this end, MBDA funds organizations that can coordinate and broker public and private resources on behalf of minority individuals and firms; offer a full range of management and technical assistance; and serve as a conduit of information and assistance regarding minority business.

Applications will be evaluated on the following criteria: the experience and capabilities of the firm and its staff in addressing the needs of the business community in general and, specifically, the special needs of minority businesses, individuals and organizations (50 points); the resources available to the firm in providing business development services (10 points); and the firm's approach (techniques and methodology) to performing the work requirements included in the application (20 points); and the firm's estimated cost for providing such assistance (20 points). An application must receive at least 70% of the points assigned to any one evaluation criteria category to be considered programmatically acceptable and responsive.

MBDCs shall be required to contribute at least 15% of the total project cost through non-Federal contributions. Client fees for billable management and technical assistance (M&TA) rendered must be charged by MBDCs. Based on a standard rate of $50 per hour, MBDCs will charge client fees at 20% of the total cost for firms with gross sales of $500,000 or less and 35% of the total cost for firms with gross sales of over $500,000.

The MBDC may continue to operate, after the initial competitive year, for up to 2 additional budget periods. Periodic reviews culminating in year-to-date quantitative and qualitative evaluations will be conducted to determine if funding for the project should continue. Continued funding will be at the discretion of MBDA based on such factors as an MBDC's satisfactory performance, the availability of funds and Agency priorities.

CLOSING DATE: The closing date for applications is April 30, 1991. Applications must be postmarked on or before April 30, 1991.

ADDRESSES: Chicago Regional Office, Minority Business Development Agency, U.S. Department of Commerce, 55 E. Monroe Street, suite 1440, Chicago, Illinois 60603 (312) 353-0182.

FOR FURTHER INFORMATION CONTACT: David Vega, Regional Director, Chicago Regional Office.

SUPPLEMENTARY INFORMATION: Anticipated processing time of this award is 120 days. Executive Order 12372, "Intergovernmental Review of Federal Program," is not applicable to this program. Questions concerning the preceding information, copies of application kits and applicable regulation can be obtained at the above address.

11.800 Minority Business Development (Catalog of Federal Domestic Assistance)

Dated: March 22, 1991.

Georgina Sanchez,

Regional Director, Washington Regional Office.

[FR Doc. 91-7677 Filed 4-1-91; 8:45 am]

BILLING CODE 3510-21-M

Business Development Center Applications: Norfolk, Virginia

AGENCY: Minority Business Development Agency; Commerce.

ACTION: Notice.

SUMMARY: The Minority Business Development Agency (MBDA) announces that it is soliciting competitive applications under its Minority Business Development Center (MBDC) program to operate an MBDC for approximately a 3 year period, subject to the availability of funds. The cost of performance for the first 12 months is estimated at $184,260 in Federal funds and a minimum of $32,516 in non-Federal contributions for the budget period September 1, 1991 to August 31, 1992. Cost-sharing contributions may be in the form of cash contributions, client fees for services, in-kind contributions, or combinations thereof. The MBDC will operate in the Norfolk, Virginia geographic service area.

The funding instrument for the MBDC will be a cooperative agreement. Competition is open to individuals, non-profit and for-profit organizations, state and local governments, American Indian tribes and educational institutions.

The MBDC program is designed to provide business development services to the minority business community for the establishment and operation of viable minority businesses. To this end, MBDA funds organizations that can coordinate and broker public and private resources on behalf of minority individuals and firms; offer a full range of management and technical assistance; and serve as a conduit of information and assistance regarding minority business.

Applications will be evaluated on the following criteria: The experience and capabilities of the firm and its staff in addressing the needs of the business community in general and, specifically, the special needs of minority businesses, individuals and organizations (50 points); the resources available to the firm in providing business development services (10 points); the firm's approach (techniques and methodology) to performing the work requirements included in the application (20 points); and the firm's estimated cost for providing such assistance (20 points). An application must receive at least 70% of the points assigned to any one evaluation criteria category to be considered programmatically acceptable and responsive.

MBDCs shall be required to contribute at least 15% of the total project cost through non-Federal contributions. Client fees for billable management and technical assistance (M&TA) rendered must be charged by MBDCs. Based on a standard rate of $50 per hour, MBDCs will charge client fees at 20% of the total cost for firms with gross sales of $500,000 or less and 35% of the total cost for firms with gross sales of over $500,000.

The MBDC may continue to operate, after the initial competitive year, for up to 2 additional budget periods. Periodic reviews culminating in year-to-date quantitative and qualitative evaluations will be conducted to determine if funding for the project should continue. Continued funding will be at the discretion of MBDA based on such factors as an MBDC's satisfactory performance, the availability of funds and Agency priorities.

CLOSING DATE: The closing date for applications is May 3, 1991. Applications must be postmarked on or before May 3, 1991.

ADDRESSES: Chicago Regional Office, Minority Business Development Agency, U.S. Department of Commerce, 55 E. Monroe Street, suite 1440, Chicago, Illinois 60603 (312) 353-0182.

FOR FURTHER INFORMATION CONTACT: David Vega, Regional Director, Chicago Regional Office.

SUPPLEMENTARY INFORMATION: Anticipated processing time of this award is 120 days. Executive Order 12372, "Intergovernmental Review of Federal Programs," is not applicable to this program. Questions concerning the preceding information, copies of application kits and applicable regulations can be obtained at the above address.

11.800 Minority Business Development (Catalog of Federal Domestic Assistance)

Dated: March 22, 1991.

Georgina Sanchez,

Regional Director, Washington Regional Office.

[FR Doc. 91-7676 Filed 4-1-91; 8:45 am]

BILLING CODE 3510-21-M

Business Development Center Applications: Chicago, IL

AGENCY: Minority Business Development Agency, Commerce.

ACTION: Notice.

SUMMARY: The Minority Business Development Agency (MBDA) announces that it is soliciting competitive applications under its Minority Business Development Center (MBDC) Program to operate an MBDC for approximately a 3-year period, subject to the availability of funds. The cost of performance for the first 12 months is estimated at $276,500 in Federal funds and a minimum of $48,794 in non-federal contributions for the budget period September 1, 1991 to August 31, 1992. Cost-sharing contributions may be in the form of cash contributions, client fees for services, in-kind contributions, or combinations thereof. The MBDA will operate in the Chicago, Illinois geographic service area. The award number of this MBDC will be 05-10-91007-01.

The funding instrument for the MBDC will be a cooperative agreement. Competition is open to individuals, non-profit and for-profit organizations, state and local governments, American Indian tribes and educational institutions.

The MBDC program is designed to provide business development services to the minority business community for the establishment and operation of viable minority businesses. To this end, MBDC funds organizations that can coordinate and broker public and private resources on behalf of minority individuals and firms; offer full range of management and technical assistance; and serve as a conduit of information and assistance regarding minority business.

Applications will be evaluated initially by Regional staff on the following criteria: The experience and capabilities of the firm and its staff in addressing the needs of the business community in general and, specifically, the special needs of minority businesses, individuals and organizations (50 points); the resources available to the firm in providing development services (10 points); the firm's approach (techniques and methodology) to performing the work requirements included in the application (20 points); and the firm's estimated cost for providing such assistance (20 points). An application must receive at least 70% of the points assigned to any one evaluation criteria category to be considered programmatically acceptable and responsive.

The selection of an application for further processing by MBDA will be made by the Director based on a determination of the application most likely to further the purposes of the MBDC program. The application will then be forwarded to the Department for final processing and approval if appropriate. The Director will consider past performance of the applicant on previous Federal awards.

MBDCs shall be required to contribute at least 15% of the total project cost through non-federal contributions. Client fees for billable management and

technical assistance (M&TA) rendered must be charged by MBDCs. Based on a standard rate of $50 per hour, MBDCs will charge client fees at 20% of the total cost for firms with gross sales of $500,000 or less and 35% of the total cost for firms with gross sales of over $500,000.

The MBDC may continue to operate, after the initial competitive year, for up to 2 additional budget periods. Periodic reviews culminating in year-to-date quantitative and qualitative evaluations will be conducted to determine if funding for the project should continue. Continued funding will be at the discretion of MBDC based on such factors as an MBDC's satisfactory performance, the availability of funds and Agency priorities.

Applicants who have an outstanding account receivable with the Federal Government may not be considered for funding until these debts have been paid or arrangements satisfactory to the Federal Government are made to pay the debt.

Applicants are subject to Governmentwide Debarment and Suspension (Nonprocurement) requirements as stated in 15 CFR part 26. In accordance with the Drug-Free Workplace Act of 1988, each applicant must make the appropriate certification as a "prior condition" to receiving a grant or cooperative agreement.

Awards under this program shall be subject to all Federal Departmental regulations, policies, and procedures applicable to Federal assistance awards.

A false statement on an application may be grounds for denial or termination of funds and grounds for possible punishment by a fine or imprisonment.

Section 319 of Public Law 101–121 generally prohibits recipients of appropriated funds from lobbying the Executive or Legislative Branches of Federal Government in connection with a specific contract, grant, or loan. A "Certification for Contracts, Grants Loans, and Cooperative Agreements" and the SF–LLL, "Disclosure of Lobbying Activities" (if applicable), is required.

CLOSING DATE: The closing date for application is May 10, 1991. Applications must be postmarked on or before May 10, 1991.

MAILING ADDRESS FOR SUBMISSION: Proposals will be reviewed by the New York Regional Office. The mailing address for submission is: New York Regional Office, Minority Business Development Agency, U.S. Department of Commerce, 26 Federal Plaza, room 3720, New York, New York 10278.

FOR FURTHER INFORMATION CONTACT: David Vega, Regional Director, Chicago Regional Office. Chicago Regional Office, Minority Business Development Agency, 55 East Monroe Street, suite 1440, Chicago, Illinois 60603, 312/353–0182.

Authority: 15 U.S.C. 1512.

Authority: Executive Order 11625, October 13, 1971.

SUPPLEMENTARY INFORMATION: Anticipated processing time of this award is 120 days. Executive Order 12372 "Intergovernmental Review of Federal Programs" is not applicable to this program. Questions concerning the preceding information, copies of application kits and applicable regulations can be obtained at the above address.

11.800 Minority Business Development (Catalog of Federal Domestic Assistance)

Note: A pre-application conference to assist all interested applicants will be held at the U.S. Department of Commerce, Minority Business Development Agency, 55 East Monroe, suite 1440, Chicago, Illinois, April 24, 1991 at 10 a.m.

Dated: March 27, 1991.

David Vega,

Regional Director, Chicago Regional Office.

[FR Doc. 91–7653 Filed 4–1–91; 8:45 am]

BILLING CODE 3510–21–M

National Oceanic and Atmospheric Administration

National Fish and Seafood Promotional Council; Public Meeting

AGENCY: National Marine Fisheries Service (NMFS), NOAA, Commerce.

TIME AND DATE: The meeting will convene at 9 a.m. on Monday, April 8, and adjourn approximately 12 noon on Tuesday, April 9, 1991.

PLACE: Edgewater Hotel, 2411 Alaskan Way, Seattle, WA 98121.

STATUS: NOAA announces a meeting of the National Fish and Seafood Promotional Council (NFSPC). The NFSPC, consisting of 15 industry members and the Secretary of Commerce as a non-voting member, was established by the Fish and Seafood Promotion Act of 1986 to carry out programs to promote the consumption of fish and seafood and to improve the competitiveness of the U.S. fishing industry.

The NFSPC is required to submit an annual marketing plan and budget to the Secretary of Commerce for his approval that describes the marketing and promotion activities the NFSPC intends to carry out. Funding for NFSPC activities is provided through Congressional appropriations.

Matters to be Considered

Portion Opened to the Public:

April 8, 1991

9 a.m.–12:15 p.m.—Chairman's opening remarks; approval of minutes from previous meeting; review of meeting agenda and objectives; presentation of completed advertising for summer radio and tie-in programs; and presentation of media plan. 12:15 p.m.–1:30 p.m.—Lunch. 1:30 p.m.–5 p.m.—Administrative team update, including discussion of industry meetings and trade shows; update on referendum and activities to generate industry support.

April 9, 1991

9 a.m.–12 noon—Discussion of international trade; refinement and amplification of Council policy regarding the formation of a generic industry-funded seafood marketing council; and other general business.

Portion Closed to the Public: None.

FOR FURTHER INFORMATION CONTACT: Jeanne M. Grasso, Program Manager, National Fish and Seafood Promotional Council, 1825 Connecticut Avenue, NW., room 620, Washington, DC 20235. Telephone: (202) 673–5237.

Dated: March 27, 1991.

David S. Crestin,

Acting Director, Office of Fisheries Conservation and Management, National Marine Fisheries Service.

[FR Doc. 91–7606 Filed 4–1–91; 8:45 am]

BILLING CODE 3510–22–M

Intent To Conduct Public Meetings on the Sites Being Considered for Nomination as the St. Lawrence River National Estuarine Research Reserve

AGENCY: Sanctuaries and Reserves Division, Office of Ocean and Coastal Resource Management, National Ocean Service, National Oceanic and Atmospheric Administration, U.S. Department of Commerce.

ACTION: Notice of intent to hold public meetings.

SUMMARY: Notice is hereby given that the Sanctuaries and Reserves Division, Office of Ocean and Coastal Resource Management (OCRM), National Ocean Service (NOS), National Oceanic and Atmospheric Administration (NOAA), U.S. Department of Commerce intends to conduct public meetings to discuss the proposed nomination of sites to be included into the proposed St. Lawrence

River National Estuaries Research Reserve (Reserve). These public meetings are being held for the purpose of soliciting comments about the proposed Reserve. The State of New York's completed site nomination package will be submitted later this year to the Sanctuaries and Reserves Division, of the OCRM, which administers the National Estuarine Research Reserve System. Environmental impact statements and draft management plans will be prepared for those State nominated sites receiving NOAA approval.

The public meetings will be held at the following times and places: April 15, 1991 at 7 p.m. at the Methodist Church Community Room, Route 37, Waddington, NY, and April 16, 1991 at 7 p.m. at the Town of Massena Hall, 60 Main Street, Massena, NY

FOR FURTHER INFORMATION CONTACT: Patmarie S. Maher or Susan E. Durden at 202–673–5122.

SUPPLEMENTARY INFORMATION: The State of New York is studying the feasibility of establishing a National Estuarine Research Reserve in portions of the St. Lawrence River. Research Reserve status provides natural coastal habitats as field laboratories for baseline ecological studies and education programs. Research and monitoring programs will be designed to enhance basic scientific understanding for coastal environments and aid in resource management decision-making.

The St. Lawrence-Eastern Ontario Commission has the lead in developing the reserve system. The area being examined (approximately 5,200 acres) is currently in the ownership of the New York Power Authority. The Commission is working with a seven agency task force that includes the New York Power Authority, the New York Department of Environmental Conservation, St. Lawrence Aquarium and Ecological Center, New York State Office of Parks, Recreation and Historic Preservation, New York Department of State, United States Fish and Wildlife Service, and the St. Lawrence County Planning Board.

Federal cost-share funding is available for establishing, operating and managing a reserve in accordance with program regulations. Funds for research, education and monitoring are provided by NOAA on a continuing, cost-sharing, competitive basis for the life of the program. There are currently 18 designated research reserves nationwide, and six other reserves in the development stages.

All interested individuals are encouraged to attend the public meetings. Invited speakers include representatives of SLEOC and NOAA. Speakers will describe the importance of the proposed reserve program to local, regional and/or statewide environmental issues, and the opportunities for local involvement in reserve operations and management. Public comments on the reserve concept are invited.

An information packet on the proposed St. Lawrence National Estuarine Research Reserve will be available at the public meeting. Speakers are asked to provide a written copy of their statement at the meeting. It is recommended that members of the public limit their presentations to five (5) minutes in length.

Federal Domestic Assistance Catalog Number 11.420, Coastal Zone Management—Estuarine Sanctuaries.

Dated: March 25, 1991.

John J. Carey,

Deputy Assistant Administrator for Ocean Services and Coastal Zone Management.

[FR Doc. 91–7675 Filed 4–1–91; 8:45 am]

BILLING CODE 3510–08–M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Establishment of an Import Limit for Certain Man-Made Fiber Textile Products Produced or Manufactured in India

March 26, 1991.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs establishing a limit.

EFFECTIVE DATE: April 2, 1991.

FOR FURTHER INFORMATION CONTACT: Jennifer Tallarico, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 377–4212. For information on the quota status of this limit, refer to the Quota Status Reports posted on the bulletin boards of each Customs port or call (202) 343–6494. For information on embargoes and quota re-openings, call (202) 377–3715. For information on categories for which consultations have been requested, call (202) 377–3740.

SUPPLEMENTARY INFORMATION:

Authority. Executive Order 11651 of March 3, 1972, as amended; section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854).

Inasmuch as recent consultations held between the Governments of the United States and India have not resulted in a mutually satisfactory solution for Category 635, the United States Government has decided to control imports in Category 635 for the twelve-month period which began on January 1, 1991 and extends through December 31, 1991.

The United States remains committed to finding a solution concerning Category 635. Should such a solution be reached in further consultations with the Government of India, further notice will be published in **Federal Register**.

A description of the textile and apparel categories in terms of HTS numbers is available in the Correlation: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see **Federal Register** notice 55 FR 50756, published on December 10, 1990). Also see 56 FR 6840, published on February 20, 1991.

Auggie D. Tantillo,

Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

March 26, 1991

Commissioner of Customs,

Department of the Treasury, Washington, DC 20229.

Dear Commissioner: This directive amends, but does not cancel, the directive of December 7, 1990 issued to you by the Chairman, Committee for the Implementation of Textile Agreements. That directive concerns imports of certain cotton, man-made fiber, silk blend and other vegetable fiber textiles and textile products, produced or manufactured in India and exported during the twelve-month period which began on January 1, 1991 and extends through December 31, 1991.

Effective on April 2, 1991, you are directed to amend the December 7, 1990 directive to establish a limit of 142,166 dozen [1] for man-made fiber textile products in Category 635. Category 635 shall remain subject to the Group II limit. Import charges already made to Category 635 shall be retained.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

Auggie D. Tantillo

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 91–7594 Filed 4–1–91; 8:45 am]

BILLING CODE 3510–DR–M

[1] The limit has not been adjusted to account for any imports exported after December 31, 1990.

COMMODITY FUTURES TRADING COMMISSION

Chicago Board of Trade Proposed Rules Revising Certain Disciplinary Procedures

AGENCY: Commodity Futures Trading Commission.

ACTION: Notice of proposed new contract market rules.

SUMMARY: The Chicago Board of Trade ("CBT" or "Exchange") has submitted a number of proposed rules and rule amendments to the Commodity Futures Trading Commission ("Commission") for its review. In sum, the proposed rules and rule amendments would revamp certain disciplinary procedures currently in place at the CBT. The primary focus of the submission is the creation of several new disciplinary committees. The Exchange has indicated that the creation of these committees is designed to (1) enhance the fairness and objectivity of the disciplinary system, (2) create an appeals process which would alleviate the workload of the Exchange's Board of Directors, (3) ensure that adequate time was spent on appeals, and (4) increase Exchange supervision over the financial compliance activities of the member firms.

Acting pursuant to the authority delegated by Commission Regulation 140.96, the Director of the Division of Trading and Markets, with the concurrence of the General Counsel, has determined, on behalf of the Commission, that publication of these proposed rules and rule amendments is in the public interest and will assist the Commission in considering the views of interested persons. Accordingly, the Division, on behalf of the Commission, is publishing the proposed rules and rule amendments for public comment.

DATES: Comments must be received on or before May 2, 1991.

FOR FURTHER INFORMATION CONTACT: John C. Lawton, Associate Director, or Christopher K. Bowen, Attorney, Division of Trading and Markets, Commodity Futures Trading Commission, 2033 K Street, NW., Washington, DC 20581. Telephone: (202) 254–8955.

SUPPLEMENTARY INFORMATION: By letter dated February 28, 1991, the CBT submitted a number of proposed rules and rule amendments under section 5a(12) of the Commodity Exchange Act ("Act").[1] These proposed rules and rule amendments would make certain revisions to the current CBT disciplinary process. The Exchange has proposed the establishment of several committees which it believes would result in a fairer and more efficient disciplinary system. Proposed Rule 165.01 would establish a Regulatory Oversight Committee comprised of ten members responsible for the establishment and review of all investigative policies and procedures of the Office of Investigations and Audits ("OIA"). This committee also would be responsible for determining whether a record of prior disciplinary sanctions should be established and made accessible to Exchange members, whether the revealing of prior disciplinary history to a disciplinary committee unfairly prejudices an individual or firm and whether violations of Exchange rules and regulations should be categorized into classes of offenses. Finally, this Committee would instruct the OIA to administer a statement of member's rights and responsibilities to each member who is the subject of an investigation.[2]

Proposed Rule 540.01A would establish a Reasonable Grounds Committee. This Committee would provide any member, member firm or "other person with trading privileges" who was under investigation by the OIA with an informal forum to contest the merits of OIA's allegations. Although the Committee's decision would not be binding, the Committee would make a recommendation to the OIA and, in certain circumstances, to the appropriate disciplinary committee based on its findings.

Proposed Rule 551.00 would establish a Financial Compliance Committee responsible for supervising the financial compliance of member firms and agricultural regular firms. This Committee would take over these responsibilities from the Business Conduct Committee, which would retain its authority over market surveillance and other functions. In general, the Financial Compliance Committee would be granted broad discretionary authority to monitor and to ensure the financial compliance of members and member firms. The Committee would have the authority to investigate all financial dealings of members, member firms, their wholly-owned affiliates, including parents and subsidiaries, agricultural regular firms and other persons with trading privileges. In addition, the Committee would be authorized to supervise the capital formation and capital compliance of such entities and to prescribe capital requirements for member firms. In the event immediate action was necessary, the Financial Compliance Committee would be empowered to take summary action. The Exchange believes that the creation of one specialized committee focusing on financial compliance is necessary to address the increasing complexities associated with firm financial compliance.

Proposed Rule 540.12 would establish a Hearing Committee to adjudicate charges issued by the CBT's current Business Conduct, Floor Governors or the proposed Financial Compliance Committee. This Committee would assume the present authority of the Business Conduct and the Floor Governors Committees to adjudicate cases and to impose fines or other disciplinary penalties.

Finally, proposed Rule 540.11 would establish an Appellate Committee responsible for reviewing the decisions of the disciplinary committees of the Exchange. This committee would have the authority to adjudicate guilt and to impose penalties. There would be a right to appeal a decision of this committee to the Board of Directors under limited circumstances. The Exchange believes that the creation of this committee would alleviate some of the administrative workload of the Board of Directors as well as ensuring that ample time is given to any disciplinary appeal.

Acting pursuant to the authority delegated by Commission Regulation 140.96, The Director of the Division of Trading and Markets, with the concurrence of the General Counsel, has determined, on behalf of the Commission, that publication of the proposed rules and rule amendments is in the public interest and will assist the Commission in considering the views of interested persons. Accordingly, the Division, on behalf of the Commission, is publishing the proposed rules and rule amendments for public comment. The Commission requests comments on any aspects of the proposed rules and rule amendments that members of the public believe may raise issues under the Act or Commission regulations.

Copies of the CBT Submission are available for inspection at the Office of the Secretariat, Commodity Futures Trading Commission, 2033 K Street, NW., Washington, DC 20581. Copies may also be obtained through the Office of the Secretariat at the above address or by telephoning (202) 254–6314.

---

[1] The proposed new and amended CBT rules are as follows: 165.01, 170.04, 270.01, 273.01, 285.01, 285.02, 285.03, 285.06, 403.01, 476.00, 480.08, 519.00, 519.01, 519 92, 519 04, 540.01A, 540.04, 540.05, 540.06, 540.08, 540.09, 540.10, 540.11, 540.12, 542.00, 543.00, 545.01, 551.00, 560.00, 561.00, 563.00 and 924.01.

[2] A sample of this statement was attached to the proposed rules.

Any person interested in submitting written data, views, or comments on the proposed regulation should send such comments to Jean A. Webb, Secretary, Commodity Futures Trading Commission, 2033 K Street, NW., Washington, DC 20581 by the specified date.

Issued in Washington, DC on March 26, 1991.

Andrea M. Corcoran,

Director, Division of Trading and Markets.

[FR Doc. 91-7609 Filed 4-1-91; 8:45 am]

BILLING CODE 6351-01-M

DEPARTMENT OF DEFENSE

Defense Logistics Agency

Department of Defense Clothing and Textiles Board; Meeting

AGENCY: Defense Logistics Agency, Department of Defense.

ACTION: Notice of open meetings.

SUMMARY: In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), the Deputy Director for Acquisition Management, Defense Logistics Agency, announces the fourth and fifth meetings of the Department of Defense Clothing and Textiles (DoD C&T) Board.

DATE: April 17, 1991.

ADDRESSES AND TIME: Defense Logistics Agency, Cameron Station, room 3A260, Alexandria, Virginia, 1000-1600.

DATES: May 20, 1991.

ADDRESSES AND TIME: US Marine Corps Clothing Initial Issue Point, Parris Island, South Carolina, 0900-1130. US Army Clothing Initial Issue Point, Fort Jackson, South Carolina, 1430-1700

FOR FURTHER INFORMATION CONTACT: Ms. Maxine James; Quality Assurance Specialist, Product Quality Management Division, Defense Logistics Agency, Department of Defense, Cameron Station, Alexandria, VA (202) 274-7141.

SUPPLEMENTARY INFORMATION: Agenda for the meeting will focus on improvements to DoD acquisition of clothing and textile products.

Capt. M.J. Schildwachter,

USN, Executive Secretary, DoD C&T Board.

[FR Doc. 91-7318 Filed 4-1-91; 8:45 am]

BILLING CODE 3620-01-M

Department of the Air Force

USAF Scientific Advisory Board Meeting

March 27, 1991.

The USAF Scientific Advisory Board Space Cross-Matrix Panel will meet on 23-25 April 1991 from 8 a.m. to 5 p.m. at Headquarters, Air Force Space Command (AFSPACECOM), Peterson AFB, Colorado.

The purpose of this meeting will be to familiarize the panel with current AFSPACECOM activities and operations and to discuss potential SAB study topics. This meeting will involve discussions of classified defense matters listed in section 552b(c) of title 5, United States Code, specifically subparagraph (1) thereof, and accordingly will be closed to the public.

For further information, contact the Scientific Advisory Board Secretariat at (703) 697-4811.

Patsy J. Conner,

Air Force Federal Register Liaison Officer.

[FR Doc. 91-7673 Filed 4-1-91; 8:45 am]

BILLING CODE 3910-01-M

USAF Scientific Advisory Board Meeting

March 26, 1991.

The USAF Scientific Advisory Board Logistics Cross-Matrix Panel will meet on 24-26 April 1991 from 8 a.m. to 5 p.m. The purpose of the meeting is to receive briefings and discuss information related to potential SAB study topics. The request for the closed meeting is based on the fact that classified defense information will be discussed. In accordance with section 552b(c) of title 5, United States Code, specifically subparagraph (1) these meetings should be closed to the public.

For further information, contact the Scientific Advisory Board Secretariat at (703) 697-8845.

Patsy J. Conner,

Air Force Federal Register Liaison Officer.

[FR Doc. 91-7674 Filed 4-1-91; 8:45 am]

BILLING CODE 3910-01-M

Department of the Army

Military Traffic Management Command: Policy Change Concerning Storage-in-Transit (SIT)

AGENCY: Military Traffic Management Command (MTMC), DOD.

ACTION: Final revision of DOD 4500.34-R, Personal Property Traffic Management Regulation.

SUMMARY: On November 8, 1990 (55 FR 46981), a proposal was made by the Department of Defense to incorporate a policy specifying a maximum time frame in which a carrier or carriers' agents have to place personal property properly in storage-in-transit (SIT), to comply with paragraph 36.1. of the Tender of Service, for personal property household goods and unaccompanied baggage shipments. Industry comments were mostly unanimous to change the time limit for placing shipments in storage from 3 days to 5 days. Therefore, paragraph 36.a. of the Tender of Service will be change to read:

a. Storage. Personal property shall be stored on skids, dunnage, pallet bases, elevated platforms, or similar storage aids maintaining a minimum of at least 2 inches clearance from the floor to the undermost portion of the personal property. This must be done no later than 5 workdays after receipt of the property by the storage facility or 5 workdays after the SIT number issued, whichever is greater. In addition, the property shall not be stored in contact with exterior walls. Trash cans, extension ladders, lawn mowers, TV antennas, swing sets, and other like items are excluded from this requirement.

EFFECTIVE DATE: Change will be effective on April 1, 1991.

FOR FURTHER INFORMATION CONTACT: Ms. Betty Wells, Headquarters, Military Traffic Management Command, ATTN: MTPP-QQ, 5611 Columbia Pike, Falls Church, VA 22041-5000. Telephone (703) 756-1784.

SUPPLEMENTARY INFORMATION: The proposed revision supersedes policy published in DOD 4500.34-R, Personal Property Traffic Management Regulation.

Kenneth L. Denton,

Alternate Army Federal Register Liaison Officer.

[FR Doc. 91-7672 Filed 4-1-91; 8:45 am]

BILLING CODE 3710-08-M

DEPARTMENT OF ENERGY

Proposed Subsequent Arrangement

Pursuant to section 131 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2160), notice is hereby given of a proposed "subsequent arrangement" under the Additional Agreement for Cooperation between the Government of the United States of America and the European Atomic Energy Community (EURATOM) concerning Peaceful Uses of Atomic Energy, as amended, and the

Agreement for Cooperation between the Government of the United States of America and the Government of Japan concerning Peaceful Uses of Nuclear Energy.

The subsequent arrangement to be carried out under the above-mentioned agreements involve approval of the following retransfer: RTD/JA(EU)-54, for the transfer from France to Japan of 2,946 grams of uranium, enriched to 19.95 percent in the isotope uranium-235 for use as fuel in the Kyoto University research reactor.

In accordance with section 131 of the Atomic Energy Act of 1954, as amended, it has been determined that this subsequent arrangement will not be inimical to the common defense and security.

This subsequent arrangement will take effect no sooner than fifteen days after the date of publication of this notice.

Issued in Washington, DC on March 27, 1991.

Richard H. Williamson,

Associate Deputy Assistant Secretary for International Affairs.

[FR Doc. 91-7597 Filed 4-1-91; 8:45 am]

BILLING CODE 6450-01-M

Proposed Subsequent Arrangement

Pursuant to section 131 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2160), notice is hereby given of a proposed "subsequent arrangement" under the Additional Agreement for Cooperation between the Government of the United States of America and the European Atomic Energy Community (EURATOM) concerning Peaceful Uses of Atomic Energy, as amended, and the Agreement for Cooperation between the Government of the United States of America and the Government of Norway concerning Peaceful Uses of Nuclear Energy.

The subsequent arrangement to be carried out under the above-mentioned agreements involves approval of the following retransfer: RTD/NO(EU)-58, for the transfer of 35.26 kilograms of uranium, enriched to 19.95 percent in the isotope uranium-235, in the form of uranium-oxide powder, from Germany to Norway, for fabrication of fuel elements for the Halden research reactor.

In accordance with section 131 of the Atomic Energy Act of 1954, as amended, it has been determined that this subsequent arrangement will not be inimical to the common defense and security.

This subsequent arrangement will take effect no sooner than fifteen days after the date of publication of this notice.

Issued in Washington, DC on March 27, 1991.

Richard H. Williamson,

Associate Deputy Assistant Secretary for International Affairs.

[FR Doc. 91-7596 Filed 4-1-91; 8:45 am]

BILLING CODE 6450-01-M

Contract: Westinghouse Electric Corporation, Advanced Energy Systems Department

AGENCY: Department of Energy.

ACTION: Notice of potential organizational conflict of interest after contract award.

Summary

In accordance with Section 170A of the Atomic Energy Act (42 U.S.C. 2210) as amended and Department of Energy Acquisition Regulation (DEAR, 48 CFR chapter 9, subpart 909.570, "DOE Organizational Conflicts of Interest"), DOE has made the finding and determination of the existence of a potential organizational conflict of interest for two tasks under an existing Statement of Work to be performed by Westinghouse Electric Corporation pursuant to a contract with the U.S. Department of Energy, Office of Nuclear Energy, Space and Defense Power Systems Program, Office of Special Applications (Contract No. DE-AC91-87NE32131). Upon careful analysis of the subsequent information, DOE will continue to retain the contract for the full Statement of Work because the undersigned in behalf of the Secretary of Energy, has determined this notice to be in the best interest of the United States Government.

FOR FURTHER INFORMATION CONTACT:

Robert C. Raczynski, Office of Special Applications, room E-409, U.S. Department of Energy, Germantown, MD 20585, (301) 353-2907.

Carol M. Rueter, Office of Procurement, room 1J-027, U.S. Department of Energy, Forrestal Building, 1000 Independence Ave., SW., Washington, DC 20585, (202) 586-8262.

Findings, Mitigation, and Determination

Under the Department of Energy Acquisition Regulations as implemented by 48 CFR chapter 9, subpart 909.570.9(a)(3), the Department of Energy is subject to strict requirements intended to avoid an Organizational Conflict of Interest (OCI) in the award and performance of contracts for technical support services.

An OCI is considered to exist when a contractor "has past, present or currently planned interests, that, either directly or indirectly, through a client relationship, relate to the work to be performed under a Department contract and which (1) may diminish its capacity to give impartial, technically sound, objective assistance and advice or (2) may result in it being given an unfair competitive advantage" (DOE Acquisition Regulations 48 CFR 909.570-3). Pursuant to these statutory provisions, a contract may not be awarded unless the Secretary or his designee has made a determination that it is unlikely that an OCI would exist, or that a conflict has been avoided after inclusion of appropriate conditions in the contract.

If an OCI is determined to exist, and cannot be avoided, the contract may be awarded only if the Secretary or his designee determines that award would be in the best interest of the United States and includes appropriate provisions in the contract to mitigate the OCI. If, after award, a possible OCI is subsequently identified, the Secretary or his designee must determine whether or not it would be in the best interest of the Government to continue or terminate the contract.

In addition to the mission of the Office of Nuclear Energy in developing and coordinating nuclear safety policy for all Departmental nuclear reactor and nonreactor nuclear facilities, and in addition to its primary mission in support of civilian nuclear power, the Office of Nuclear Energy also supports the Space and Defense Power Systems Program, which includes the Office of Special Applications. The Office of Special Applications is planning to conduct radioisotope thermoelectric generator development and production for the National Aeronautics and Space Administration's (NASA) CRAF and Cassini missions scheduled for launch in 1995 and 1996, respectively. The scope of work of the existing contract between the U.S. Department of Energy and Westinghouse Electric Corporation (Contract #DE-AC01-87NE32131) to support radioisotope program activities, of which these missions are a major portion, include design, safety, quality and reliability assurance, facility construction, startup and production reviews to meet mission requirements. The mission requirements mandate that the reviews performed by Westinghouse be conducted on an established precise schedule. The time required to procure these review services would severely delay the reviews, which would in turn delay the missions at a substantial cost.

The Organizational Structure of Westinghouse Electric Corporation Performing Work for the U.S. Department of Energy as it Relates to the Contract

- The Plutonium Experimental and Plutonium Fuel Form Facilities, and the Pu–238 processing facilities are located at the Savannah River Plant in Aiken, South Carolina, and operated by the Westinghouse Savannah River Company (WSRC).
- Westinghouse Electric Corporation, Advanced Energy Systems Department is located in Madison, Pennsylvania, and would provide comments to the DOE Office of Special Applications on processes and procedures related solely to the Radioisotope Power Systems Program for fuel production and fuel encapsulation. For this same program, Westinghouse Electric Corporation, Advanced Energy Systems Department under the Contract, would participate in walk-throughs and readiness reviews; and review and provide comments on quality and reliability programs, plans, and procedures related to the above. All of this would take place at the Savannah River site.
- In addition, Westinghouse Electric Corporation, Advanced Energy Systems Department under the Contract, may perform quality assurance, reliability and operational analysis overviews of the Radioisotope Power Systems Facility (RPSF) located in Richland, Washington, which is operated by Westinghouse Hanford Company. This includes quality assurance and reliability reviews of the RPSF design and process equipment. Also, the Advanced Energy Systems Division would audit, review and provide comments to the DOE Office of Special Applications on operational procedures and processes and the testing program for facility qualification.
- Each of the Government-Owned Contractor-Operated's (GOCO) (i.e., Westinghouse Savannah River Company and Westinghouse Hanford Company) are subsidiaries of Westinghouse Electric Company.
- The Advanced Energy Systems Department Energy Systems Business Unit reports to the same Senior Executive Vice President through the Executive Vice President of Power Systems.
- Each of the GOCO's report to a Senior Executive Vice-President/Director.

Potential for Organizational Conflict of Interest

Given the anticipated work described above, each of the three separate Westinghouse entities are affiliates of each other and are controlled by someone with the power to control all three entities. (DEAR 909.570–3).

Given the nature of Quality Assurance, a potential for bias exists. The Business Unit performing work for the Office of Special/Applications would be reporting to and making recommendations on processes/procedures implemented at each GOCO facility by the same corporation. (The corporation would in essence by reviewing its own operations, processes and quality assurance activities). This places the business unit in conflicting roles unless the potential for bias is either eliminated by nonperformance altogether or by acquiring the professional support services of an entirely new qualified contractor through the acquisition process for new procurements.

Nonperformance of this work is not a viable option because Congress has decided to fund the program mission in its entirety, and the Department of Energy would not be complying with the Congressional decision to carry out the Department's mission.

The acquisition of professional support services by another contractor is also not a viable option because alternate contractor support services are not available within the necessary timeframe to meet the schedule established by NASA to further the program missions.

Therefore, in accordance with DOE Acquisition Regulation DEAR 909.570–9(a)(3) and because the OCI cannot be avoided, the Secretary's designee (undersigned below) has nevertheless determined that assignment of the Tasks described herein are to be performed by Westinghouse Electric Corporation under the contract, notwithstanding the potential for OCI (bias), pursuant to the determination that it is in the best interest of the United States Government to assign the work promptly to Westinghouse Electric Corporation.

Mitigation

Mitigation of the potential conflict, to the extent feasible prior to assignment of the Task described herein will consist of the following action. All deliverables provided in performance of each Task described will be made available for review by DOE prior to DOE acceptance; all programmatic final decisions are to be made by the Government. The Contracting Officers Representative will assure the undersigned Assistant Secretary for Nuclear Energy that the contractor's role will be advisory only. These assurances will take the form of written reports and will be made available upon request.

Determination

Based on the findings, mitigation and determination as described previously, the existing contract described will continue to remain in full force, after taking into account the existence of a potential OCI. Having the tasks performed by Westinghouse Electric Corporation under the existing contract is determined to be in the best interest of the United States, pursuant to the authority of DOE Acquisition Regulation.

William H. Young,

Assistant Secretary for Nuclear Energy.

[FR Doc. 91–7709 Filed 4–1–91; 8:45 am]

BILLING CODE 6450–01–M

American Nuclear Society Student Conference Grant; Intent to Negotiate Renewal

AGENCY: Department of Energy.

ACTION: Intent to Negotiate Renewal of the American Nuclear Society Student Conference grant.

SUMMARY: The U.S. Department of Energy (DOE), Idaho Operations Office, intends to negotiate the renewal, on a noncompetitive basis, of the American Nuclear Society Student Conference grant. Total funding available under this program for FY 1991 is $20,000. The renewal award will carry the activity through December 31, 1991. The statutory authority for the proposed award is the Department of Energy Organization Act, under Public Law 95–91, which was enacted to provide for the development of technologies and processes to reduce total energy consumption. The proposed grant renewal will allow DOE–ID to continue to provide financial assistance to the American Nuclear Society (ANS), Education Division, to sponsor and conduct three regional student conferences, in addition to providing support for ANS student chapter members attendance at the ANS national meetings. The objective of this award is to provide partial funding support for the host universities for the three regional student conferences and student participation in the national meetings. These activities are being conducted by ANS using its own resources and those donated by third parties. The authority and justification for determination of noncompetitive financial assistance is subparagraph (B) of criteria listed in 10 CFR 600, § 600.7. The American Nuclear Society is the

professional society for those engaged in nuclear science and engineering related work. There is no other entity associated with nuclear technology and education to assume oversight responsibility for this project. DOE knows of no other entity which is conducting or is planning to conduct activities such as the ANS student conferences.

The activities funded by this grant will enhance the public benefits to be derived from the ANS conferences and meetings and support the goal of the DOE University and Science Education Division to assist university based science education activities including nuclear science and engineering related activities. Public response may be addressed to the individual below.

CONTACT: U.S. Department of Energy, Idaho Operations Office, 785 DOE Place, Idaho Falls, Idaho 83402, Susan L. Hensley, Contract Specialist (208) 526–8534.

R. Jeffrey Hoyles,

Acting Director, Contract Management Division.

[FR Doc. 91–7710 Filed 4–1–91; 8:45 am]

BILLING CODE 6450–01–M

Morgantown Energy Technology Center Cooperative Agreement; Financial Assistance Award to Donlee Technologies, Inc.

AGENCY: Morgantown Energy Technology Center, Department of Energy (DOE).

ACTION: Notice of acceptance of an unsolicited financial assistance application for Cooperative Agreement award.

SUMMARY: Based upon a determination made pursuant to 10 CFR 600.7(B)(2)(i) the DOE, Morgantown Energy Technology Center give notice of its plans to award a 36 month Cooperative Agreement to the Donlee Technologies, Inc. with an associated budget of approximately $3,696,873 of which the Lebanon, Pennsylvania, Veterans Administration Hospital will cost share 50 percent.

FOR FURTHER INFORMATION CONTACT: Laura E. Brandt, I–07, U.S. Department of Energy, Morgantown Energy Technologies Center, P.O. Box 880, Morgantown, West Virginia 26507–0880, Telephone: (304) 291–4079, Procurement Request No. 21–91MC27205.000.

SUPPLEMENTARY INFORMATION: The pending award is based on an application for the project entitled "Atmospheric Fluidized Bed Combustion (AFBC) Co-Firing of Coal and Hospital Waste." This project involves a technology using a coal-fired circulating fluidized bed cumbustor (CFBC) to destroy hospital wastes and also produce steam for hospital heating and laundry needs. The results of this effort will provide an alternative approach to the problems associated with current hospital waste disposal practices. Providing the feasibility of co-combusting coal and waste will alleviate the burden placed on hospitals and other institutions in disposing of such wastes in addition to creating new markets for coal.

Dated: March 19, 1991.

Louis L. Calaway,

Director, Acquisition and Assistance Division, Morgantown Energy Technology Center.

[FR Doc. 91–7711 Filed 4–1–91; 8:45 am]

BILLING CODE 6450–01–M

Financial Assistant: State University of New York, Syracuse

AGENCY: U.S. Department of Energy.

ACTION: Intent to negotiate a grant renewal agreement entitled "Development of High-Crystallinity Sulfonated Pervaporation Membranes".

SUMMARY: The Department of Energy announces that pursuant to 10 CFR 600.7(b)(2) it plans to award the renewal of a grant to the State University of New York, Syracuse (SUNY). This grant covers the development of sulfonated ion-exchange membranes compatible with 80 to 100 degree celsius fluids and capable of being used economically and energy efficiently in pervaporation systems for the separation of water/alcohol mixtures. The grant renewal budget of $225,250 ($99,476 DOE funding, $125,774 cost-sharing) will allow SUNY to test the developed membranes in industrial process streams. With this renewal award, the total estimated budget for this grant is $661,271. The authority and justification for Determination of Noncompetitive Financial Assistance (DNCFA), is DOE Financial Assistance Rules 10 CFR 600.7 (b)(2)(i), paragraphs (A) and (D). (A) The activity to be funded is necessary to the satisfactory completion of or is a continuation or renewal of, an activity presently being funded by DOE or another Federal Agency, and for which competition for support would have a significant adverse effect on continuity or completion of the activity. (D) The applicant has exclusive domestic capability to perform the activity successfully, based upon unique equipment, proprietary data, technical expertise, or other such unique qualifications.

CONTACT: U.S. Department of Energy, Idaho Operations Office, Attn: Scott D. Applonie, Contracts Management Division, 785 DOE Place, Idaho Falls, ID 83402–1129, (208) 526–8558.

Procurement request number: 07–91ID12673.001.

Dated: March 19, 1991.

J.P. Anderson,

Acting Director, Contracts Management Division.

[FR Doc. 91–7712 Filed 4–1–91; 8:45 am]

BILLING CODE 6450–01–M

Financial Assistance Award; Intent to Award Twenty-one Cooperative Agreements Under the State Heating Oil Program

AGENCY: U.S. Department of Energy (DOE).

ACTION: Notice of intent to make the following restricted eligibility financial assistance awards and of a class deviation which applies to these awards:

DE–FC01–91EI22613, State of Vermont
DE–FC01–91EI22614, State of Connecticut
DE–FC01–91EI22615, State of Ohio
DE–FC01–91EI22616, State of Michigan
DE–FC01–91EI22617, State of Rhode Island
DE–FC01–91EI22618, State of Iowa
DE–FC01–91EI22619, State of New Hampshire
DE–FC01–91EI22620, State of New York
DE–FC01–91EI22621, State of Maine
DE–FC01–91EI22622, State of Pennsylvania
DE–FC01–91EI22623, Washington, DC
DE–FC01–91EI22624, State of Missouri
DE–FC01–91EI22625, State of Wisconsin
DE–FC01–91EI22626, State of Illinois
DE–FC01–91EI22627, State of Massachusetts
DE–FC01–91EI22628, State of Minnesota
DE–FC01–91EI22629, State of South Dakota
DE–FC01–91EI22630, State of Indiana
DE–FC01–91EI22631, State of Nebraska
DE–FC01–91EI22635, State of New Jersey
DE–FC01–91EI22636, State of North Carolina

SUMMARY: DOE announces that, pursuant to 10 CFR 600.7, it is making restricted eligibility financial assistance awards under the above listed Cooperative Agreements, and pursuant to 10 CFR 600.4, it is making notice of a class deviation which applies to these awards. The approved deviation to 10 CFR 600.103(g)(3) is for expenditures of preaward costs for the total amount of these cooperative agreements after incurrence of these costs has occurred. This deviation is necessary to achieve program objectives, conserve public funds and is essential to the public interest. The awards will total $429.240.18 (DOE share: $207,017.13 Recipients share; $222,223.05). The

cooperative agreements will permit the involved states to complete and receive payment for conducting semi-monthly surveys to collect state level residential No. 2 heating oil and propane prices during the heating season. These data will provide Congress with information to be utilized in analyzing the heating fuels markets in the event of supply and price related crises.

SCOPE: The objective of the proposed cooperative agreements is to analyze the heating fuels markets, during the heating season, in order to determine these states's specific program plans and individual needs for heating fuels statistics.

ELIGIBILITY: Out of a universe of 50 potentially eligible states, Congress has mandated that data be collected from only primary residential fuel consuming states. As a result of this mandate, only 21 states have been identified as the primary residential fuel consuming states. Furthermore, these states have unique qualifications and capabilities to provide the necessary information, based on their participation in this program in prior heating seasons, and have established data collection relationships with the heating oil distributors and refiners. Accordingly, it has been determined that the objectives of this program may only be achieved by the 21 states identified above.

FOR FURTHER INFORMATION CONTACT: U.S. Department of Energy, Office of Placement and Administration, Attn: Ms. Donna Williams, PR-322.2, 1000 Independence Avenue, SW., Washington, DC 20585.

Scott Sheffield,

Acting Director, Operations Division "B", Office of Placement and Administration.

[FR Doc. 91-7713 Filed 4-1-91; 8:45 am]

BILLING CODE 6450-01-M

Federal Energy Regulatory Commission

[Docket Nos. QF89-251-000, et al.]

Las Vegas Cogeneration, Inc., et al.; Electric Rate, Small Power Production, and Interlocking Directorate Filings

Take notice that the following filings have been made with the Commission:

1. Las Vegas Cogeneration, Inc.

[Docket No. QF89-251-000]

March 22, 1991.

On March 18, 1991, Las Vegas Cogeneration, Inc. tendered for filing an amendment to its filing in this docket.

The amendment clarifies certain aspects of the configuration of the proposed cogeneration facility.

Comment date: April 23, 1991, in accordance with Standard paragraph E at the end of this notice.

2. Tampa Electric Company

[Docket No. ER91-25-000]

March 25, 1991.

Take notice that on March 18, 1991, Tampa Electric Company (Tampa Electric) tendered for filing an amendment to its October 12, 1990 submittal of a Letter of Commitment between Tampa Electric and Seminole Electric Cooperative, Inc. (Seminole). The amended Letter of Commitment provides for the sale by Tampa Electric to Seminole of up to 200 megawatts of capacity and energy.

Tampa electric proposes an effective date of October 13, 1990, for the commitment of capacity and energy, and therefore requests waiver of the Commission's notice requirements.

Copies of the amendatory filing have been served on Seminole and the Florida Public Service Commission.

Comment date: April 23, 1991, in accordance with Standard paragraph E at the end of this notice.

3. Arkansas Power & Light Company

[Docket No. ER91-327-000]

March 25, 1991.

Take notice that on March 19, 1991 Arkansas Power & Light Company (AP&L) submitted for filing the Sixteenth Amendment to the Power Coordination, Interchange and Transmission Service Agreement between AP&L and Arkansas Electric Cooperative Corporation (AECC). The Amendment provides for the addition of four points of delivery, transfer of capacity at three points of delivery, a change in capacity at twenty-one points of delivery, and the modification of effective delivery dates for six points of delivery.

AP&L requests that the Commission waive any requirements with which AP&L has not already complied.

Comment date: April 23, 1991, in accordance with Standard paragraph E at the end of this notice.

4. Pennsylvania Electric Company

[Docket No. ER91-324-000]

March 25, 1991.

Take notice that on March 18, 1991, Pennsylvania Electric Company (Penelec) filed an agreement for the provision by Penelec to Allegheny Hydro No. 8, L.P. and Allegheny Hydro No. 9, L.P. (collectively, Allegheny Hydro) of supplemental transmission service. Such supplemental transmission service is related to the delivery of the output of Allegheny Hydro's generating facilities to a point of interconnection with the transmission facilities of New York State Electric & Gas Corporation. The provision by Penelec of such supplemental transmission service to Allegheny Hydro under the agreement will result in a $300,000 increase in Penelec's annual revenues.

Copies of the filing were served upon Allegheny Hydro and the Pennsylvania Public Utility Commission.

Comment date: April 8, 1991 in accordance with Standard Paragraph E at the end of this notice.

5. Canal Electric Company

[Docket No. ES91-18-000]

March 25, 1991.

Take notice that on March 19, 1991, Canal Electric Company filed an application with the Federal Energy Regulatory Commission seeking authority pursuant to 204 of the Federal Power Act to issue not more than $60 million of short-term debt on or before December 31, 1992 with a final maturity date no later than December 31, 1993.

Comment date: April 18, 1991, in accordance with Standard Paragraph E at the end of this notice.

6. Florida Power Corporation

[Docket No. ER91-252-000]

March 25, 1991.

Take notice that on February 6, 1991, Florida Power Corporation (FPC) tendered for filing an amendment to its February 4, 1991, filing substituting the Second Revised Sheet No. 4 to the All Requirements Electric Service Agreements with the City of Williston, the City of Alachua and the City of Chattahoochee, Florida. FPC states that this Second Revised Sheet No. 4 reflects a date of January 1, 1990 for the commencement of the monthly billing credit contained in the three agreements rather than January 1, 1989, as stated in the February 4 filing.

Comment date: April 3, 1991, in accordance with Standard Paragraph E at the end of this notice.

7. Arkansas Power & Light Company

[Docket No. ER91-296-000]

March 25, 1991.

Take notice that Arkansas Power & Light Company ("AP&L") filed on March 19, 1991 a proposed modified Second Amendment to Peaking Power Agreement ("Superseding Amendment") between AP&L and the City of Osceola, Arkansas ("Osceola"). The Peaking Power Agreement supplements the Power Coordination, Interchange & Transmission Agreement between Osceola and AP&L. The Superseding Amendment replaces the proposed

Second Amendment filed on March 1, 1991 in this docket. In addition, additional data explaining operation of the formulas contained in the Amendments is also included.

Comment date: April 8, 1991, in accordance with Standard Paragraph E at the end of this notice.

8. Niagara Mohawk Power Corporation

[Docket No. ER91-258-000]

March 25, 1991.

Take notice that Niagara Mohawk Power Corporation (Niagara) on March 18, 1991, submitted an amendment to its February 7, 1991 filing wherein it inadvertently filed a cancellation of its Rate Schedule No. 117 between Niagara and Northeast Utilities Service Company (NU). Niagara did not intend to cancel Rate Schedule No. 115 between Niagara and NU.

Niagara presently has on file an Agreement with NU dated January 19, 1981 which provides for the delivery of power and energy to NU from time to time. This Agreement is designated as Niagara Mohawk Power Corporation Rate Schedule No. 115. This cancellation is a result of Niagara providing written notice of termination to NU.

Copies of the Cancellation were served upon NU and the New York State Public Service Commission.

Comment date: April 8, 1991, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraphs:

E. Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 7624 Filed 4-1-91; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. CP91-1478-000, et al.]

U-T Offshore System, et al.; Natural Gas Certificate Filings

March 25, 1991.

Take notice that the following filings have been made with the Commission:

1. U-T Offshore System

[Docket Nos. CP91-1478-000, CP91-1479-000, CP91-1480-000, CP91-1481-000]

Take notice that on March 18, 1991 [1] U-T Offshore System, P.O. Box 1396, Houston, Texas 77251, (Applicant) filed in the above-referenced dockets prior notice requests pursuant to §§ 157.205 and 284.223 of the Commission's Regulations under the Natural Gas Act for authorization to transport natural gas on behalf of various shippers under its blanket certificate issued by the Commission's Order No. 509 corresponding to the rates, terms and conditions filed in Docket No. RP89-99-000, pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the requests that are on file with the Commission and open to public inspection.[2]

Information applicable to each transaction, including the identity of the shipper, the type of transportation service, the appropriate transportation rate schedule, the peak day, average day and annual volumes, and the initiation service dates and related ST docket numbers of the 120-day transactions under § 284.223 of the Commission's Regulations, has been provided by Applicant and is summarized in the attached appendix.

Comment date: May 9, 1991, in accordance with Standard Paragraph G at the end of this notice.

[1] The requests under blanket authorization were tendered for filing on March 6, 1991; however, the fees required by § 381.207 of the Commission's Rules (18 CFR 381.207) were not paid until March 18, 1991. Section 381.103 of the Commission's Rules provides that the filing date is the date on which the fee is paid.

[2] These prior notice requests are not consolidated.

Docket number (date filed)	Shipper name (type)	Peak day, average day, annual Mcf	Receipt [1] points	Delivery points	Contract date, rate schedule service type	Related docket, start up date
CP91-1478-000 (3-18-91)	Meridian Oil Trading, Inc. (marketer).	30,000 30,000 10,950,000	OLA	LA	7-1-90, IT, Interruptible.	ST91-7109-000, 10-1-90.
CP91-1479-000 (3-18-91)	Pennzoil Gas Marketing Co. (marketer).	225,000 225,000 82,125,000	OLA	LA	7-1-90, IT, Interruptible.	ST91-7107-000, 10-5-90.
CP91-1480-000 (3-18-91)	Entrade Corporation (marketer).	220,000 30,000 10,950,000	OLA	LA	7-1-90, IT, Interruptible.	ST91-7110-000, 9-27-90.
CP91-1481-000 (3-18-91)	Inland Steel Company (end-user).	20,000 20,000 7,300,000	OLA	LA	7-1-90, IT, Interruptible.	ST91-7111-000, 10-4-90.

[1] Offshore Louisiana is shown as OLA.

2. United Gas Pipe Line Company

[Docket Nos. CP91-1597-000,[3] CP91-1598-000, CP91-1599-000, CP91-1600-000, CP91-1601-000]

Take notice that on March 20, 1991, United Gas Pipe Line Company (Applicant), filed in the above referenced dockets, prior notice requests pursuant to §§ 157.205 and 284.223 of the Commission's Regulations under the Natural Gas Act for authorization to transport natural gas on behalf of various shippers under its blanket certificate issued pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the prior notice requests which are on file with the Commission

[3] These prior notice requests are not consolidated.

and open to public inspection and in the attached appendix.

Information applicable to each transaction including the identity of the shipper, the type of transportation service, the appropriate transportation rate schedule, the peak day, average day and annual volumes, and the docket numbers and initiation dates of the 120-day transactions under § 284.223 of the Commission's Regulations has been provided by the Applicant and is included in the attached appendix.

The Applicant also states that it would provide the service for each shipper under an executed transportation agreement, and that the Applicant would charge rates and abide by the terms and conditions of the referenced transportation rate schedule(s).

Comment date: May 9, 1991, in accordance with Standard Paragraph G at the end of this notice.

Docket number (date filed)	Applicant	Shipper name	Peak day [1] average, annual	Points of		Start up date, rate schedule	Related [2] dockets
				Receipt	Delivery		
CP91-1597-000 3-20-91	United Gas Pipe Line Co. P.O. Box 1478 Houston, TX 77251-1478.	Pennzoil Gas Marketing Co.	206,000 206,000 75,190,000	TX, LA, MS, Off TX, Off LA.	LA, TX, MS, FL, AL, Off LA.	2-19-91, ITS	CP88-6-000. ST91-7601-000.
CP91-1598-000 3-20-91	United Gas Pipe Line Co. P.O. Box 1478 Houston, TX 77251-1478.	NGC Transportation, Inc.	154,500 154,500 56,392,500	LA	LA	2-1-91, ITS	CP88-6-000. ST91-7132-000.
CP91-1599-000 3-20-91	United Gas Pipe Line Co. P.O. Box 1478 Houston, TX 77251-1478.	ORYX Gas Marketing Limited Partnership	61,800 61,800 22,557,000	LA, TX, MS	LA, TX, FL, AL, MS	2-5-91, ITS	CP88-6-000. ST91-7692-000.
CP91-1600-000 3-20-91	United Gas Pipe Line Co. P.O. Box 1478 Houston, TX 77251-1478.	MidCon Marketing Corp.	721,000 721,000 263,165,000	Off LA, TX, LA, MS, AL, Off TX, NM, UT, OK.	LA, Off LA, TX, MS, AL, FL, Off TX.	2-19-91, ITS	CP88-6-000. ST91-7600-000.
CP91-1601-000 3-20-91	United Gas Pipe Line Co. P.O. Box 1478 Houston, TX 77251-1478.	Arkla Energy Marketing Co.	206,000 206,000 75,190,000	TX, LA, Off LA, MS, AL	LA, MS, AL, FL	1-22-91, ITS	CP88-6-000. ST91-7702-000.

[1] Quantities are shown in MMBtu unless otherwise indicated.
[2] The CP docket corresponds to applicant's blanket transportation certificate. If an ST docket is shown, 120-day transportation service was reported in it.

3. Algonquin Gas Transmission Company; Texas Eastern Transmission Corporation

[Docket No. CP91-1580-000]

Take notice that on March 15, 1991, Algonquin Gas Transmission Company (Algonquin), 1284 Soldiers Field Road, Boston, Massachusetts 02135 and Texas Eastern Transmission Corporation (Tetco), 5400 Westheimer Court, Houston, Texas 77056, jointly referred to as Applicants, filed in Docket No. CP91-1580-000 a joint application pursuant to sections 7(c) and 7(b) of the Commission's Regulations under the Natural Gas Act for (a) a certificate of public convenience and necessity authorizing (1) Algonquin to assign to certain of its customers a portion of Algonquin's service entitlement under Tetco's proposed Rate Schedule SS-1; (2) Tetco to render storage service under proposed Rate Schedule SS-1 to those Algonquin customers; (3) Algonquin to render new winter sales and transportation services under proposed Rate Schedules AWS, WPS and WFT to certain of its customers; (4) Algonquin to sell to its Rate Schedule WFT customers their share of any gas attributable to the restructuring of Rate Schedule WS which is sold by Tetco to Algonquin and their share of gas injected into storage by Algonquin during the pendency of the application; (b) permission and approval for (1) Algonquin to abandon Rate Schedule WS-1 service to all existing customers; and (2) Tetco to abandon a portion of Rate Schedule SS-1 service to Algonquin, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicants state that the purpose of the application is to allow Algonquin to render new services to replace its existing Rate Schedule WS-1 service and Tetco to receive authority to complete the restructuring of its Rate Schedule WS service to Algonquin as contemplated by the Joint Settlement and Amended Application filed in Docket No. CP90-186-001.

Algonquin states that all of its WS-1 customers were offered the options of replacing WS-1 service by purchasing replacement sales service under new proposed Rate Schedules AWS and WPS, by purchasing SS-1 storage service directly from Tetco and transportation service from Algonquin under new proposed Rate Schedule WFT or some combination thereof. Applicants state that the combination of proposed services from Algonquin and Tetco provide Algonquin's existing Rate Schedule WS-1 customers the opportunity to purchase more flexible service arrangements while retaining overall levels of service equivalent to those they now have. Applicants state that as reflected in the precedent agreements, the application is either supported by or not opposed by all of the customers who will receive the new firm services.

Comment date: April 15, 1991, in accordance with Standard Paragraph F at the end of this notice.

4. United Gas Pipe Line Company

[Docket No. CP91-1602-000]

Take notice that on March 20, 1991, United Gas Pipe Line Company (United), Post Office Box 1478, Houston, Texas 77251-1478, filed in Docket No. CP91-1602-000 a request pursuant to §§ 157.205 and 284.223 of the Commission's Regulations under the

Natural Gas Act for authorization to transport natural gas for Bishop Pipeline Corporation, an intrastate pipeline company, under United's blanket certificate issued in Docket No. CP88–6–000, pursuant to section 7(c) of the Natural Gas Act, all as more fully set forth in the request on file with the Commission and open to public inspection.

United proposes to transport up to 41,200 MMBtu of natural gas per day for Bishop pursuant to a transportation agreement dated January 26, 1987, as amended February 7, 1991, between United and Bishop. United would receive gas from existing points of receipt in offshore Louisiana, Louisiana, Texas, and Mississippi and deliver to points in Louisiana, Texas, Alabama, Mississippi, and Florida.

United further states that the estimated average daily and annual quantities would be 41,200 MMBtu and 15,038,000 MMBtu, respectively. Service under section 284.233(a) commenced on January 28, 1991, as reported in Docket No. ST91–7701–000, it is stated.

Comment date: May 9, 1991, in accordance with Standard Paragraph G at the end of this notice.

5. Marathon Oil Company

[Docket No. CI90–122–000]

Take notice that on June 6, 1990, Marathon Oil Company (Marathon), Post Office Box 3128, Houston, Texas 77253, filed an application pursuant to section 7(b) of the Natural Gas Act for authorization permitting and approving the abandonment of certain sales to Peoples Natural Gas Company (Peoples), all as more fully described in the application which is on file with the Commission and open to public inspection.

Specifically, Marathon requests authority to abandon the sale of natural gas to Peoples in connection with a gas purchase agreement executed on February 16, 1960, between Marathon, successor to Kinney-Coastal Oil Company, as seller, and Peoples, successor to Kansas-Colorado Utilities, Inc., as buyer. Service under the agreement was authorized by Commission Order issued January 4, 1972, in Docket No. CI71–479. The purchase agreement, as amended, constitutes Marathon's FERC Gas Rates Schedule No. 113. Marathon seeks abandonment on the basis that Peoples has assigned its interest in the purchase agreement to Greeley Gas Company (Greeley). Marathon states that Greeley has alleged to Maraghon that "Greeley does not operate under FERC jurisdiction." Therefore, Marathon states that certificated service is no longer necessary. Marathon also states that no facilities are proposed to be abandoned in the instant application.

Comment date: April 11, 1991, in accordance with Standard Paragraph J at the end of the notice.

6. Seagull Marketing Services, Inc. Mobil Natural Gas Inc.

Docket Nos. CI86–7–007 [4], CI88–307–002]

Take notice that on March 20, 1991, Seagull Marketing Services, Inc. of 1001 Fannin, suite 1700, Houston, Texas 77002, and on March 22, 1991, Mobil Natural Gas Inc. of 12450 Greenspoint Drive, Houston, Texas 77060–1991 (Applicants) each filed an application pursuant to sections 4 and 7 of the Natural Gas Act and the Federal Energy Regulatory Commission's (Commission) regulations thereunder to amend their blanket limited-term certificates with pregranted abandonment previously issued by the Commission in Docket Nos. CI86–7–006 and CI88–307–001 for terms expiring March 31, 1991 to extend the term of such authorizations, all as more fully set forth in the application which is on file with the Commission and open for public inspection.

Applicant in Docket No. CI86–7–007 requests extension for a three-year term. Applicant in Docket No. CI88–307–002 requests extension for an unlimited term, and also requests authorization to make sales for resale in interstate commerce of imported natural gas, natural gas purchased under pipeline discount sales programs (ISS gas), and liquid natural gas.

Comment date: April 1, 1991, in accordance with Standard Paragraph J at the end of this notice.

Standard Paragraphs

F. Any person desiring to be heard or make any protest with reference to said filing should on or before the comment date file with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this filing if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for the applicant to appear or be represented at the hearing.

G. Any person or the Commission's staff may, within 45 days after the issuance of the instant notice by the Commission, file pursuant to rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefore, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to section 7 of the Natural Gas Act.

Lois D. Cashell,

Secretary.

Standard Paragraph

J. Any person desiring to be heard or make any protest with reference to said filings should on or before the comment date file with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426 a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR §§ 385.211, .214). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party in any proceeding herein must file a petition to

[4] This notice does not provide for consolidation for hearing of the several matters covered herein.

intervene in accordance with the Commission's rules.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for the applicant to appear or be represented at the hearing.

Lois D. Cashell,

Secretary.

[FR Doc. 91-7625 Filed 4-1-91; 8:45 am]

BILLING CODE 6717-01-M

Office of Fossil Energy

[FE Docket No. 91-15-NG]

Portland General Electric Co. Application for Blanket Authorization To Import Natural Gas

AGENCY: Department of Energy, Office of Fossil Energy.

ACTION: Notice of application for blanket authorization to import natural gas.

SUMMARY: The Office of Fossil Energy (FE) of the Department of Energy (DOE) gives notice of receipt on February 19, 1991, of an application filed by Portland General Electric Company (PGE) for blanket authorization to import a daily maximum of 150,000 Mcf, up to a total of 40 Bcf of Canadian natural gas over a two-year term beginning on the date of first delivery. PGE intends to use existing pipeline facilities for the transportation of the imported gas. PGE states that it will notify DOE within two weeks after deliveries begin and will submit qurterly reports detailing each transaction.

The application is filed under section 3 of the Natural Gas Act and DOE Delegation Order Nos. 0204-111 and 0204-127. Protests, motions to intervene, notices of intervention and written comments are invited.

DATES: Protests, motions to intervene or notices of intervention, as applicable, requests for additional procedures and written comments are to be filed at the address listed below no later than 4:30 p.m., e.s.t., May 2, 1991.

ADDRESSES: Office of Fuels Programs, Fossil Energy, U.S. Department of Energy, Forrestal Building, room 3F-056, FE-50, 1000 Independence Avenue, SW., Washington, DC 20585.

FOR FURTHER INFORMATION CONTACT:

Xavier Puslowski, Office of Fuels Programs, Fossil Energy, U.S. Department of Energy, Forrestal Building, room 3F-094, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586-4708.

Diane Stubbs, Office of Assistant General Counsel for Fossil Energy, U.S. Department of Energy, Forrestal Building, room 6E-042, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586-6667.

SUPPLEMENTARY INFORMATION: PGE is an electric utility incorporated under the laws of the State of Oregon with its principal place of business at Portland, Oregon. It is a wholly owned subsidiary of Portland General Corporation. PGE requests authorization to import natural gas from a variety of Canadian suppliers up to a maximum of 40 Bcf over a term of two years beginning on the date of first delivery after April 6, 1991, the date its existing import authority expires (Order No. 285, 1 ERA ¶70,794). PGE intends to use the gas as fuel for its Beaver and Bethel generating facilities. It may also, on occasion, resell surplus gas it cannot immediately use.

The decision on this import application will be made consistent with DOE's gas import policy guidelines, under which the competitiveness of an import arrangement in the markets served is the primary consideration in determining whether it is in the public interest (49 FR 6684, February 22, 1984). Parties that may oppose this application should comment in their responses on the issue of competitiveness as set forth in the policy guidelines. The applicant asserts that imports made under this requested arrangement will be competitive. Parties opposing the arrangement bear the burden of overcoming this assertion.

NEPA Compliance:

The National Environmental Policy Act (NEPA), 42 U.S.C. 4321, *et seq.*, requires DOE to give appropriate consideration to the environmental effects of its proposed actions. No final decision will be issued in this proceeding until DOE has met its NEPA responsibilities.

Public Comment Procedures

In response to this notice, any person may file a protest, motion to intervene or notice of intervention, as applicable, and written comments. Any person wishing to become a party to the proceeding and to have the written comments considered as the basis for any decision on the application must, however, file a motion to intervene or notice of intervention, as applicable. The filing of a protest with respect to this application will not serve to make the protestant a party to the proceeding, although protests and comments received from persons who are not parties will be considered in determining the appropriate action to be taken on the application. All protests, motions to intervene, notices of intervention, and written comments must meet the requirements that are specified by the regulations in 10 CFR part 590. Protests, motions to intervene, notices of intervention, requests for additional procedures, and written comments should be filed with the Office of Fuels Programs at the above address.

It is intended that a decisional record will be developed on the application through responses to this notice by parties, including the parties' written comments and replies thereto. Additional procedures will be used as necessary to achieve a complete understanding of the facts and issues. A party seeking intervention may request that additional procedures be provided, such as additional written comments, an oral presentation, a conference, or trial-type hearing. Any request to file additional written comments should explain why they are necessary. Any request for an oral presentation should identify the substantial question of fact, law, or policy at issue, show that it is material and relevant to a decision in the proceeding, and demonstrate why an oral presentation is needed. Any request for a conference should demonstrate why the conference would materially advance the proceeding. Any request for a trial-type hearing must show that there are factual issues genuinely in dispute that are relevant and material to a decision and that a trial-type hearing is necessary for a full and true disclosure of the facts.

If an additional procedure is scheduled, notice will be provided to all parties. If no party requests additional procedures, a final opinion and order may be issued based on the official record, including the application and responses filed by parties pursuant to this notice, in accordance with 10 CFR 590.316.

A copy of PGE's application is available for inspection and copying in the Office of Fuels Programs Docket Room, 3F-056 at the above address. The docket room is open between the hours of 8 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

Issued in Washington, DC, March 25, 1991.

Clifford P. Tomaszewski,

Acting Deputy Assistant Secretary for Fuels Programs, Office of Fossil Energy.

[FR Doc. 91-7714 Filed 4-1-91; 8:45 am]

BILLING CODE 6450-01-M

[FE Docket No. 90-107-NG]

Unigas Energy, Inc.; Order Granting Blanket Authorization To Import Natural Gas, Including Liquefied Natural Gas

AGENCY: Department of Energy, Office of Fossil Energy.

ACTION: Notice of an order granting blanket authorization to import natural gas.

SUMMARY: The Office of Fossil Energy of the Department of Energy gives notice that it has issued an order granting Unigas Energy, Inc., blanket authorization to import up to 290 Bcf of natural gas, including liquefied natural gas, over a two-year period beginning on the date of first delivery after April 6, 1991.

A copy of this order is available for inspection and copying in the Office of Fuels Programs Docket Room, 3F-056, Forrestal Building, U.S. Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586-9478. The docket room is open between the hours of 8 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

Issued in Washington, DC, March 26, 1991.

Clifford P. Tomaszewski,

Acting Deputy Assistant Secretary for Fuels Programs, Office of Fossil Energy.

[Fr Doc. 91-7715 Filed 4-1-91; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. FE C&E 91-10; Certification Notice—78]

Notice of Filing Certification of Compliance: Coal Capability of New Electric Powerplant Pursuant to Provisions of the Powerplant and Industrial Fuel Use Act, as Amended

AGENCY: Office of Fossil Energy, Department of Energy.

ACTION: Notice of filing.

SUMMARY: Title II of the Powerplant and Industrial Fuel Use Act of 1978 (FUA), as amended (41 U.S.C. 8301 *et seq.*), provides that no new electric powerplant may be constructed or operated as a base load powerplant without the capability to use coal or another alternate fuel as a primary energy source (FUA section 201(a), 42 U.S.C. 8311(a), Supp. V. 1987). In order to meet the requirement of coal capability, the owner or operator of any new electric powerplant to be operated as a base load powerplant proposing to use natural gas or petroleum as its primary energy source may certify, pursuant to FUA section 201(d), to the Secretary of Energy prior to construction, or prior to operation as a base load powerplant, that such powerplant has the capability to use coal or another alternate fuel. Such certification establishes compliance with section 201(a) as of the date it is filed with the Secretary. The Secretary is required to publish in the **Federal Register** a notice reciting that the certification has been filed. Three owners and operators of proposed new electric base load powerplants have filed self-certifications in accordance with section 201(d).

Further information is provided in the SUPPLEMENTARY INFORMATION section below.

SUPPLEMENTARY INFORMATION: The following companies have filed self-certifications:

Name	Date received	Type of facility	Megawatt capacity	Location
Northeast Cogen Incorporated Parsippany, NJ	03-21-91	Topping Cycle	50	Solvay, NY.
Onondaga Cogeneration Limited Partnership Parsippany, NJ	03-21-91	Topping Cycle	83	Geddes, NY.
Nevada Sun-Peak Limited Partnership Irvine, CA	03-20-91	Simple Cycle Gas Turbine	210	Las Vegas, NV.

Amendments to the FUA on May 21, 1987 (Public Law 100-42), altered the general prohibitions to include only new electric base load powerplants and to provide for the self-certification procedure.

Copies of this self-certification may be reviewed in the Office of Fuels Programs, Fossil Energy, Room 3F-056, FE-52, Forrestal Building, 1000 Independence Avenue SW., Washington, DC 20585, or for further information call Myra Couch at (202) 586-6769.

Issued in Washington, DC on March 26, 1991.

Anthony J. Como,

Director, Office of Coal & Electricity, Office of Fuels Programs, Fossil Energy.

[FR Doc. 91-7598 Filed 4-1-91; 8:45 am]

BILLING CODE 6450-01-M

Office of Hearings and Appeals

Issuance of Decisions and Orders; Week of January 28 Through February 1, 1991

During the week of January 28 through February 1, 1991, the decisions and orders summarized below were issued with respect to appeals and applications for other relief filed with the Office of Hearings and Appeals of the Department of Energy. The following summary also contains a list of submissions that were dismissed by the Office of Hearings and Appeals.

Appeals

Atlantic Richfield Co., 2/1/91, LEA-0001

The Atlantic Richfield Company (ARCO) filed an Appeal with the Office of Hearings and Appeals of the Department of Energy (DOE), in which it contested the denial by the Economic Regulatory Administration (ERA) of an Application to Refile Refiner's Monthly Cost Allocation Reports" (Application to Refile) submitted by ARCO under 10 CFR 212.126(d). In the Application to Refile, ARCO requested permission to refile its Refiner's Monthly Cost Allocation Reports (RMCAR's) for the months August 1973 through December 1975. In considering ARCO's Appeal, the DOE rejected the ERA's procedural arguments that ARCO's Application to Refile was barred. However, the DOE determined that ARCO failed to show "good cause" exists for the ERA's acceptance of its refiling, as required under 10 CFR 212.126(d)(2). In addition, the DOE determined ARCO failed to demonstrate that the firm exercised "due care and diligence" in seeking the adjustments to its RMCAR's contained in its Application to Refile, as required under 10 CFR 212.126(d)(3). Accordingly, ARCO's Appeal was denied.

Robert G. Stater, et al., 2/1/91, KFA-0215, et al.

Robert G. Stater, the Schenectady Gazette, Frank L. Bordell, and the Government Accountability Project filed Appeals from partial denials by the Office of Nuclear Reactors of identical requests for information that they filed under the Freedom of Information Act

(FOIA). In considering the portions of the Appeals that concerned classified material, the DOE determined that the material previously deleted from the redated copies provided to the appellants was properly classified and thus had been properly withheld under Exemption 1 of the FOIA. (The portions of the Appeals regarding non-classified material were handled in Knolls Action Project, 19 DOE ¶ 80,103 (1989). Accordingly, the Appeals were denied.

Interlocutory Order

The Crude Co., 1/31/91, LRZ–0014

The Crude Company (TCC) filed a motion requesting the Office of Hearings and Appeals (OHA) to issue an order clarifying determinations made in its November 20, 1990 Decision and Order concerning TCC's supplemental discovery requests. Specifically, TCC asked for a clarification concerning the evidentiary status of the affidavits of two officers of the Southwestern Refining Company, Inc. (SRCI), which were submitted by SRCI in support of its Statement of Objections. In considering this request, the DOE determined that the November 20, 1990 Decision and Order clearly delineated the evidentiary status of these affidavits and that no additional clarification was needed. Accordingly, TCC's motion for clarification was denied.

Refund Applications

Brother's Truck Rental Co., Inc., 1/29/91, RR272–63

The DOE issued a Decision and Order concerning a Motion for Reconsideration submitted on behalf of Brother's Truck Rental Company, Inc. (Brother's). Brother's requested a refund from crude oil overcharge funds based on its purchases of refined petroleum products during the period August 19, 1973, through January 27, 1981. Brothers' original refund Application indicated that the firm was engaged in "truck rental and leasing." The original Application submitted by Brother's was denied because the applicant did not demonstrate that it was injured by the crude oil overcharges, a requirement for all vehicle rental and leasing firms, which are considered as resellers and retailers for the purposes of the subpart V crude oil special refund proceeding. Brother's Truck Rental Co., *et al.*, Case Nos. RF272–68878, *et al.* (August 17, 1990). In its Motion for Reconsideration, the applicant sufficiently demonstrated that it was an end-user of the refined petroleum products purchased by its company and that its refund claim should therefore be evaluated under the end-user presumption of injury. Accordingly, the Motion for Reconsideration was granted, Brother's receiving a refund of $2,139.

Brown Bakeries, Inc., Lewis Brothers Bakeries, Inc., 2/1/91, FR272–16343, RD272–16343, RF272–17079, RD272–17079

The DOE issued a Decision and Order granting the Applications for Refund filed by Brown Bakeries, Inc., and Lewis Brothers Bakeries, Inc., in the subpart V crude oil special refund proceeding. The Applicants are in the wholesale bakery business. The DOE determined that the Applicants were end-users of the portion of petroleum products that formed the basis of their Applications. A consortium of states and two U.S. territories (the States) filed objections to the Applications, which were found to be similar to Objections filed in other cases in the crude oil proceeding. Similarly, these objections were rejected, and the Motions for Discovery filed by the States were denied.

City of Columbus, OH, City of Columbus, OH, 1/31/91, RC272–105, RC272–106

The DOE issued a Supplemental Order concerning Applications for Refund filed by the City of Columbus, Ohio in the subpart V crude oil special refund proceeding. The DOE discovered that the City of Columbus, Ohio, filed for and received a refund in the Refiners Escrow. Therefore, the applicant waived its right to a refund in the crude oil proceeding. Accordingly, this Supplemental Order rescinded the original Decisions and Orders with respect to the City of Columbus, Ohio's claims. In addition, this Decision stated that the City of Columbus, Ohio, shall remit to the DOE the $30,073 total refund amount granted in the previous Decisions.

Continental Grain Co., A.E. Staley Manufacturing Co., Lauhoff Grain Co., 1/31/91, RF272–13180, RD272–13180, RF272–14352, RF272–20524, RD272–20524

The DOE issued a Decision and Order granting the Applications for Refund filed by Continental Grain Company, A.E. Staley Manufacturing Co., and Lauhoff Grain Co. in the subpart V crude oil special refund proceeding. The Applicants are in the grain processing industry. The DOE determined that mineral oil is a covered product. The DOE determined that the Applicants were end-users of the portion of petroleum products that formed the basis of their Applications. A consortium of states and two U.S. territories (the States) filed Objections to the Applications, which were found to be similar to Objections filed in other cases in the crude oil proceeding. Similarly, these objections were rejected, and the Motions for Discovery by the States were denied.

Crouse-Hinds Electrical Construction Materials, 1/31/91, RF272–5111, RD272–5111

The DOE issued a Decision and Order denying an Application for Refund filed in the subpart V crude oil special refund proceeding by Crouse-Hinds Electrical Construction Materials, a wholly owned subsidiary of Cooper Industries. Because the Wagner Division of Cooper Industries, on behalf of itself and all of its affiliates, had previously waived all rights to other crude oil refunds by signing the Waiver and Release required for its Stripper Well Surface Transporters claim, the DOE determined that Crouse-Hinds was not eligible for a refund in this proceeding. Accordingly, the refund Application of Crouse-Hinds was denied. The DOE also dismissed as moot a Motion for Discovery filed in the proceeding by a consortium of state governments.

Dillingham Construction Corp., Inc., et al., 2/1/91, RF272–60495, et al., RD272–60495, et al.

The DOE issued a Decision and Order granting refund monies from crude oil overcharges to seven construction companies. The applicants used the petroleum products in their highway and heavy construction operations. The DOE rejected identical objections filed by a consortium of 32 states and two territories (the States), finding the objections insufficient to rebut the presumptions of injury. Therefore, the Applications for Refund of these seen firms were granted. The related Motions for Discovery filed by the States in regard to these Applications were denied. The refunds granted totalled $337,733.

Dundee Mills, Inc., 2/1/91, RF 272–11454, RD272–11454

Dundee Mills, Incorporated (Dundee), a manufacturer and seller of towels, filed an Application for Refund as an end-user of refined petroleum products in subpart V crude oil special refund proceeding. A group of states and two U.S. territories (the States) objected to the Application on the basis of material concerning the textile industry as a whole and filed a Motion for Discovery. The DOE determined that the States had failed to produce any convincing evidence to show that Dundee, as an individual firm, had been able to pass on the crude oil overcharges to its customers. As in previous Decisions, the

DOE rejected the States' contention that industry-wide data constituted sufficient evidence to rebut the presumption that end-users such as Dundee were injured by crude oil overcharges. The DOE granted Dundee a refund of $5,577 based upon purchases of 6,971,806 gallons of refined petroleum products and denied the Motion for Discovery.

Eddie Steamship Co., Ltd., 1/31/91, RF 272–59818, RD272–59818

The DOE issued a Decision and Order concerning an Application for Refund as well as objections and a Motion for Discovery filed by a consortium of states (the states) and two U.S. territories (the States) filed in the subpart V crude oil special refund proceeding. The DOE denied the States' Objection, finding that foreign cargo carriers are eligible for a refund, determined that the refund claim was meritorious, and granted a refund of $124,334. The DOE denied a related Motion for Discovery filed by the State s.

Engle Oostdyk, Inc., Tanksley Transfer Co., 1/31/91, RF 272–14570, RF272–21126

The DOE issued a Decision and Order granting two Applications for Refund filed in the subpart V crude oil special refund proceeding. Engle Oostdyk, Inc. (Oostdyk) and Tanksley Transfer Co. (Tanksley) purchased refined petroleum products during the period August 19, 1973, through January 27, 1981. The applicants were end-users of the products they claimed. However, the American Trucking Association (ATA) had filed applications and waivers in the Surface Transporters Escrow Fund on behalf of both Oostdyk and Tanksley. We contacted both applicants and determined that the ATA was not authorized to file in the Surface Transporters proceeding on their behalf. Therefore, the waivers were held invalid, and the applicants were granted refunds in the crude oil proceeding in the amount of $2,181. The applicants will be eligible for additional refunds as additional crude oil overcharge funds become available.

Exxon Corp./Horsham Exxon, 1/28/91, RF 272–7187, RF307–7812

The DOE issued a Decision and Order concerning two Applications for Refund filed by Horsham Exxon and its owner, Felix Vozza, in the Exxon Corporation special refund proceeding. In the Decision and Order, the DOE determined that the Applications were duplicate and that both should be denied.

Oahu Sugar Co., 1/31/91, RF 272–10657

Oahu Sugar Company, a sugar producer, filed an Application for Refund as an end-user of refined petroleum products in the subpart V crude oil special refund proceeding. A group of states and two U.S. territories (the States) objected to the Application on the basis of evidence concerning the sugar industry as a whole. The DOE determined that the States had failed to produce any convincing evidence to show that Oahu Sugar had been able to pass on any crude oil overcharges to its customers. As in previous decisions, the DOE also rejected the States' contention that industry-wide data constituted sufficient evidence to rebut the presumption that end-users such as Oahu Sugar Company were injured by crude oil overcharges. Oahu Sugar Company purchased 22,592,785 gallons of petroleum products, including "lubricating solvent" and "hydraulic solvent." These oils are used for hydraulic use in the clearing and lubricating of factory machinery. After investigating these products, it was determined that, like motor oils, these fluids are products derived from crude oil and accordingly form a basis for a refund. The applicant was granted a refund of $18,074.

Ocean Spray Cranberries, Inc., 2/1/91, *RF272–21142, RD272–21142*

The DOE issued a Decision and Order granting an Application for Refund filed by Ocean Spray Cranberries, Inc., a food processor, in the subpart V crude oil special refund proceeding. The DOE determined that the Applicant was an end-user of the refined petroleum products that formed the basis of its Application and granted a refund of $10,727. Objections and a related Motion for Discovery filed by a consortium of states and two U.S. territories were den ed.

P&O Bulk Carriers Ltd., 2/1/91, *RF272–52846, RD272–52846*

P&O Bulk Carriers Limited (P&O), a foreign ocean carrier, filed an Application for Refund in the subpart V crude oil special refund proceeding. A consortium of states and two U.S. territories (the States) objected to the Application and filed a Motion for Discovery. The DOE concluded that, contrary to the States' Objections, foreign flag carriers are eligible for refunds and that no sufficient evidence had been provided showing that P&O had been able to pass on any crude overcharges. In view of that determination, the States' objections and the Motion for Discovery were denied. As an end-user, the DOE concluded that, on the basis of its purchases of refined products, P&O was entitled to receive a refund of $44,840.

G. Crawford Delivery & Storage, 1/28/91, *RF272–50713*

Graisier Crawford, on behalf of G. Crawford Delivery & Storage and G. Crawford Pipe, Inc., filed an Application for Refund in the subpart V crude oil special refund proceeding. The Applications were based upon estimated purchases of refined petroleum products from the Gulf Oil Corporation and Texaco Inc. between August 19, 1973, and January 27, 1981. Based upon the same total purchases, Mr. Crawford had also filed Applications for Refund in the Gulf Oil and Texaco subpart V special refund proceedings, respectively. In considering the methods of estimating the purchase volumes utilized by Mr. Crawford, the DOE relied upon the fact that it had previously accepted the estimate and granted a refund in the Gulf Oil proceeding. Therefore, based upon purchases of 18,241,058 gallons of Gulf products, the DOE granted a refund of $14,593. The portion of the claim that is based upon purchases of Texaco refined products was held in abeyance for future consideration as Case No. RA272–34.

Public Service Electric and Gas Co., 2/1/91, *RR272–56, RF272–78508*

The DOE issued a Decision and Order denying a Motion for Reconsideration filed by the Public Service Electric and Gas Co. (PSEG) and granting PSEG a refund based on its purchases of refined petroleum products during the period August 19, 1973, through January 27, 1981. On November 3, 1988, DOE had granted a prior Application for Refund filed by PSEG in the subpart V crude oil special refund proceeding. In its Motion for Reconsideration, PSEG submitted newly discovered material setting forth purchase gallons which it requested be added by amendment to the original claim. OHA denied the request to amend the original claim, but granted a new refund on the basis of the additional gallons, treating the Motion for Reconsideration as though it were an Application for Refund. In denying the Motion for Reconsideration, OHA noted that PSEG had not offered any explanation for its failure to discover the additional gallons prior to submitting the original Application. However, because PSEG had previously demonstrated its eligibility to receive a refund, DOE granted PSEG a new refund in the amount of $221,086.

Heavy Constructors, Inc., 1/31/91, *RF272–23949, RD272–23949*

Heavy Constructors, Inc., a road construction company, filed an Application for Refund in the subpart V crude oil special refund proceeding. A group of states and two U.S. territories (the States) objected to the Application, offering data concerning the construction industry as a whole. The DOE determined that the States had failed to produce any convincing evidence to show that the applicant had been able to pass on any crude oil overcharges to its customers and found that the States failed to properly address the individual situation of the applicant. The DOE granted Heavy Constructors, Inc., a refund of $20,324, based on its approved purchases of 25,405,070 gallons of petroleum products. The DOE denied a Motion for Discovery filed by the States in this case.

Shell Oil Co./American Commercial Barge Line Co., 1/30/91, RF315–3558

The DOE issued a Decision and Order granting an Application for Refund filed in the Shell Oil Company special refund proceeding. The applicant, American Commercial Barge Line Company, purchased both directly and indirectly from Shell and was an end-user of Shell refined products. As none of the applicant's suppliers had filed a claim indicating that they suffered disproportionate injury, the applicant was granted a refund equal to its full allocable share plus a proportionate share of the interest accrued on the Shell escrow account. The total amount of the refund granted in the Decision was $7,312 ($5,478 principal plus $1,834 interest).

Shell Oil Co./Edson, Inc., 1/28/91, RF315–10120, RF315–10121

The DOE issued a Supplemental Order granting two Shell Oil Company refund Applications filed by the former and current owners of Edson, Inc., a retailer of Shell products. The OHA had originally issued a Decision denying the Application of the former owner and granting the Application of the current owner, because the current owner had purchased all of Edson's corporate stock in 1985. The former owner subsequently contacted the DOE and informed us that Edson had not been incorporated until 1978. We therefore rescinded our first determination pending an analysis of this additional information. In the instant Decision, we determined that the former owner was entitled to a refund for the period March 1973 to April 1978, when Edson became a corporation, while the current owner was entitled to a refund for May 1978 to the end of the refund period. The total of the refunds granted in this Decision is $2,117 ($1,692 in principal plus $425 in interest).

State of New Mexico, State of Oklahoma, 1/31/91, RF272–18963, RF272–56597

The DOE issued a Decision and Order concerning Applications for Refund that the States of New Mexico and Oklahoma filed in the crude oil fund being disbursed by the DOE under 10 CFR part 205, subpart V. The DOE determined that the refund claims were meritorious and granted a refund of $725,337. Phillip P. Kalodner (Kalodner), counsel for Utilities, Transporters, and Manufacturers, filed Comments and Conditional Objections to both Applications for Refund. The DOE determined that Kalodner's Comments and Objections were insufficient to rebut the presumption of end-user injury. New Mexico and Oklahoma will be eligible for additional refunds as additional crude oil overcharge funds become available.

Texaco Inc., John L. Nevans, Rhea County Oil Co., Inc., 1/30/91, RF321–4571, RF321–5468

The DOE issued a Decision and Order in the Texaco Inc. special refund proceeding concerning the Applications for Refund filed by Rhea County Oil Company, Inc., a Texaco jobber, and a retail outlet that was supplied by the Rhea. The retail outlet was in turn owned by one of the two owners of the supplier, Rhea. The applicants stated that they accepted the presumption of injury and were therefore not required to demonstrate injury. Under the mid-level presumption of injury, Rhea was granted a refund of $12,133 ($10,000 principal and $2,133 interest). In view of the common ownership of Rhea and the retail outlet, the Application on behalf of the retail outlet was denied. The DOE noted that applicants are entitled to only one refund for the same refined product purchases and the volume purchased by the retail outlet were included in calculating the refund amount due Rhea.

Trap Rock Industries, Inc., et al., 2/1/91, RF272–13164, et al., RD272–13164, et al.

The DOE issued a Decision and Order concerning Applications for Refund filed on behalf of five Applicants in the subpart V crude oil special refund proceeding. The DOE determined that the Applications were meritorious and granted refunds totalling $166,459. The DOE denied objections filed by a consortium of states and two U.S territories (the States), finding that the industry-wide econometric data submitted by the States did not rebut the presumption that the Applicants were injured by the crude oil overcharges. The Motions for Discovery filed by the States were denied.

West Point-Pepperell, Inc., 1/31/91, RF272–23786, RD272–23786

The DOE issued a Decision and Order concerning an Application for Refund submitted by West Point-Pepperell, Inc. (West Point), in the subpart V crude oil special refund proceeding. West Point requested a refund based upon its purchases of refined petroleum products during the period August 19, 1973 through January 27, 1981. The DOE, however, determined that West Point's rights to a subpart V crude oil refund had been waived by its subsidiary, West Point Transportation Company. The waiver had occurred when the subsidiary filed a waiver in, and been granted a refund from, the Surface Transporters Escrow, thereby precluding West Point and its other affiliates from eligibility for a subpart V crude oil refund. West Point's Application was therefore denied. A Motion for Discovery filed in connection with this case by a group of states and territories was determined to be moot as a result of this determination and was dismissed.

Refund Applications

The Office of Hearings and Appeals issued the following Decisions and Orders concerning refund applications, which are not summarized. Copies of the full texts of the Decisions and Orders are available in the Public Reference Room of the Office of Hearings and Appeals.

Atlantic Richfield Co./Evin's Arco *et al*	RF304–10800	01/28/91
Atlantic Richfield Co./Russ Agostini *et al*	RF304–4020	01/29/91
Exxon Corporation/Autosmiths, Inc	RF307–7910	01/29/91
Carr & Carr, Inc	RF307–8914	
Exxon Corporation/Don Sheppard's Exxon	RF307–10145	01/30/91
Anderson's Exxon Service	RF307–10157	
Jo-Ed Exxon	RF307–10158	

Exxon Corporation/Horner's Exxon Service	RF307-10171	01/30/91
Exxon Corporation/Mobay Corporation	RF307-8928	01/29/91
Maryland Cup Corporation	RF307-8930	
Exxon Corporation/New England Power Company	RF307-1676	02/01/91
Griggs Lumber & Produce Co	RF272-27531	01/31/91
Economy Oil, Inc	RF272-27533	
Gulf Oil Corp./Cumberland Valley Coop Assn	RF300-11516	02/01/91
Gulf Oil Corp./Don L. Norris *et al*	RF300-10919	01/29/91
Gulf Oil Corp./Older Adults Transportation Service, Inc. *et al*	RF300-10944	01/29/91
Gulf Oil Corp./Rabon's Gulf Oil Service *et al*	RF300-11086	02/01/91
Maru Shipping Company, Inc	RF272-26266	02/01/91
Marvin C. Nussbaum	RF272-27852	02/01/91
Paul R. Freed	RF272-3359	02/01/91
Community Service Telephonecompany	RF272-3505	
Bearden Farms	RF272-3522	
Shell Oil Company/Grand Blanc Oil Service	RF315-8062	01/28/91
Bachman Shell Service	RF315-8986	
Pierson Parkway Shell	RF315-8997	
Shell Oil Company/Sl's Super Shell *et al*	RF315-6254	01/29/91
Shell Oil Company/Veterans Petroleum Service, *Inc. et al*	RF315-1102	01/29/91
Southern Stone Co	RF272-71740	01/29/91
Bravo Lime Co	RF272-71741	
S.I. Lime	RF272-71742	
Radcliff Materials, Inc	RF272-71743	
Sunkist Growers, Inc	RF272-5320	01/31/91
Texaco Inc./Buddy Dykes Texaco *et al*	RF321-15	01/31/91
Texaco Inc./College Texaco	RF321-12946	01/28/91
Texaco Inc./Inland Container Corp	RF321-5538	01/30/91
Texaco Inc./National Freight, Inc. *et al*	RF321-3506	01/29/91
Texaco Inc./Rouse Oil Co	RF321-4742	02/01/91
Hillcrest Texaco	RF321-12175	
R & S Car Wash	RF321-12176	
Ft. Kry Trading Post	RF321-12177	
Texaco Inc./Stangel Brothers *et al*	RF321-2652	01/29/91
Westside Transit Lines/Division of ATC	RF272-77263	01/29/91
Witco Chemical Corporation/Irving Schultz & Company	RF115-10	02/01/91

Dismissals

The following submissions were dismissed:

Name and Case No.

Al's Texaco; RF321-12491
Art's North Main Texaco; RF321-12150
Ashley Medical Center; RF272-84930
Bedford County Board of Education; RF272-82178
Bloomer Farmers Union Coop Oil Co.; RF272-64732
By Pass Texaco; RF321-11833
C.H. Leavins Gulf Service; RF272-53835
Century Avenue Texaco; RF321-12222
Cloverleaf Texaco; RF321-12476
Cubby Oil Co., Inc.; RF321-12238
Dart Container Corp.; RF272-85126
Desert Knolls Texaco; RF321-1609
Dundee Central School District #1; RF272-85387
East Cleveland City School District; RF272-81249
Eddie's Texaco; RF321-6369
Evers Texaco; RF321-3732
F&W Center Service; RF321-12173
Fellwock Texaco; RF321-5242
Ford Sanders Regional Medical Center; RF272-85018
Glen Anthony Smith; RF272-78608
Groveport Madison Local School District; RF272-80264
Hammonds Super Shell; RF315-3475
Harlan County Board of Education; RF272-21887
Illinois Masonic Medical Center; RF272-85381
JD's Texaco; RF321-9376
Jewell Whitaker; RF321-12193
Joe's Texaco; RF321-12312
Kopperl Independent Sch. Dist.; RF272-81534
L.O. Johnson Texaco; RF321-9136
Linden Hill No. 1 Cooperative Corporation; RF272-41460
Lisbon Exempted Village School District; RF272-81080
M&M Foreign Car Service, Inc.; RF307-8994
Maine Central Railroad Co.; RF321-7519
Market & Memory Texaco; RF321-2087
Marvin's Texaco; RF321-12327
Mt. Airy Refining Company; KRH-0322
Mt. Airy Refining Company; KRD-0322
Mt. Airy Refining Company; KRO-0320
Mt. Airy Refining Company; KRD-0321
Northridge Texaco; RF321-2125
Paul's Texaco; RF321-12242
Phil's Texaco; RF321-12475
Pittman Brothers L.P. Gas; RF272-64645
Powell's Texaco; RF321-12158
Preston's Texaco; RF321-12477
Red Arrow Car Wash; RF321-12237
Red's Texaco; RF321-12481
Rex's Texaco; RF321-12251
Robinson Texaco; RF321-12201
Rodeway Texaco; RF321-12488
Roy's Texaco; RF321-2881
Smith Oil Co.; RF321-4366
Spencer's Texaco; RF321-7840
Stillions Texaco; RF321-6472
Suny At Stony Brook RF272-64307
Tobias Teran; RF321-2327
Trisiate Electrical Supply Co.; RF272-72117
Viator's Texaco; RF321-8293
Walker Mfg.; RF272-62540
Walter B. Cooke, Inc.; RF321-6007
Warners Central Garage; RF321-6050
Waugaman Jct. 529; RF321-6822
West End Texaco; RF321-12168
West Park Texaco; RF321-1508
William Peterson Texaco; RF321-9950
Wilson's Texaco; RF321-12478

Copies of the full text of these decisions and orders are available in the Public Reference Room of the Office of Hearings and Appeals, room 1E-234, Forrestal Building, 1000 Independence and Appeals, room 1E-234, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC. 20585, Monday through Friday, between the hours of 1 p.m. and 5 p.m., except federal holidays. They are also available in *Energy Management: Federal Energy Guidelines*, a commercially published loose leaf reporter system.

Dated: March 26, 1991.

George B. Breznay,

Director, Office of Hearings and Appeals.

[FR Doc. 91-7599 Filed 4-1-91; 8:45 am]

BILLING CODE 6450-01-M

ENVIRONMENTAL PROTECTION AGENCY

[FRL-3918-5]

Ambient Air Monitoring Reference and Equivalent Methods; Receipt of Application for a Reference Method Determination

Notice is hereby given that on March 7, 1991, the Environmental Protection Agency received an application from Advanced Pollution Instrumentation Inc., 8815 Production Avenue, San Diego, California 92121-2219, to determine if their Model 200 Chemiluminescent NO_x Analyzer should be designated by the Administrator of the EPA as a reference method under 40 CFR part 53. If, after appropriate technical study, the Administrator determines that this method should be so designated, notice thereof will be given in a subsequent issue of the **Federal Register.**

John H. Skinner,

Acting Assistant Administrator for Research and Development.

[FR Doc. 91-7683 Filed 4-1-91; 8:45 am]

BILLING CODE 6560-50-M

[OPTS-62104; FRL-3884-7]

Asbestos; Advisory to the Public

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of advisory to the public.

SUMMARY: This notice contains an advisory to the public that summarizes the potential health risks of asbestos exposure and EPA's policies for asbestos control in schools and other buildings.

FOR FURTHER INFORMATION CONTACT: Michael M. Stahl, Director, Environmental Assistance Division (TS-799), Office of Toxic Substances, Environmental Protection Agency, Rm. E-545, 401 M St., SW., Washington, DC 20460, (202) 554-1404, TDD: (202) 554-0551.

SUPPLEMENTARY INFORMATION:

I. Background

On November 28, 1990, the President signed into law the Asbestos School Hazard Abatement Reauthorization Act, Public Law 101-637. Section 13 of the Act requires the EPA Administrator, no later than 30 days after enactment, to "publish and distribute to all local education agencies and State Governors information or an advisory to: (A) facilitate public understanding of the comparative risks associated with in-place management of asbestos-containing building materials and removals; (B) promote the least burdensome response actions necessary to protect human health, safety, and the environment; and (C) describe the circumstances in which asbestos removal is necessary to protect human health."

To implement section 13 of the Act discussed above, the Administrator signed on March 6, 1991, an advisory to the public on asbestos in buildings. This advisory was mailed to all local education agencies and State Governors.

II. The Advisory

The advisory is reproduced below in its entirety.

An Advisory to the Public on Asbestos in Buildings:

The Facts About Asbestos in Buildings

In recent months, there have been a number of scientific and news reports about asbestos in buildings. Unfortunately, some of these may have confused, rather than enlightened, the public about the potential health risks of asbestos exposure and the Environmental Protection Agency's (EPA) policies regarding asbestos in schools and other buildings.

I want to summarize the EPA's policies for asbestos control in schools and other buildings. I am providing this summary in the form of five major facts that the Agency has presented in congressional testimony.

Fact one: Although asbestos is hazardous, human risk of asbestos disease depends upon exposure.

Asbestos is known to cause cancer and other diseases if asbestos fibers are inhaled into the lung and remain there. This conclusion is based upon studies involving human exposure, particularly exposure at high levels. A recent *Science* magazine article indicated exposure to chrysotile (common "white" asbestos) *may* be less likely to cause some asbestos-related diseases. Although there is more evidence of hazard for some types of asbestos, EPA believes there is reason to be concerned about other types, such as chrysotile, for which the data are less conclusive. Based on careful evaluation of available scientific evidence, EPA has adopted a prudent approach in its regulations of assuming that all fibers are of equal concern. Various scientific and regulatory organizations, including the National Academy of Sciences, support EPA's more protective regulatory approach.

It is important to stress that the mere presence of a hazardous substance, such as asbestos on an auditorium ceiling, no more implies that an asbestos-related disease will develop than a poisonous substance in a medicine cabinet or under a kitchen sink implies that a poisoning will occur. Asbestos fibers must be released from the material in which they are contained, and an individual must breathe those fibers in order to incur any chance of disease.

While scientists have been unable to agree on a level of asbestos exposure at which we, as public policy makers, can confidently say, "there is *no* risk," this does *not* mean that all or any exposure is inherently dangerous. To the contrary, almost every day we are exposed to some level of asbestos fibers in buildings or in the outdoor air. Based upon available data, very few among us, given existing regulatory controls, have contracted or will ever contract an asbestos-related disease from these relatively low levels of airborne fibers found in buildings. The present scientific evidence will not allow us to state unequivocally that there is a level of exposure below which there is a zero risk, but the risk at these low levels in fact could be negligible or even zero. The risks of asbestos disease can be higher from exposures that occur during mining, manufacturing, and use of some remaining asbestos products, for example, in the repair of automotive brakes.

Fact two: Prevailing asbestos levels in buildings--the levels that school children and you and I face as building occupants--seem to be very low, based upon available data. Accordingly, the health risk we face as building occupants also appears to be very low.

Indeed, a 1987 EPA study found that airborne fiber levels in a segment of Federal buildings with asbestos management programs were so low that the levels were in a range comparable to levels outside these buildings. While the data are not conclusive and we are seeking more information through a major research effort, the 1987 study appears to suggest that building occupants face only a minimal risk when their buildings have active asbestos management programs. Severe health problems attributed to asbestos exposure have generally been experienced by workers in industries such as shipbuilding, where they were constantly exposed to very high fiber levels in the air, often without any of the worker protections now afforded to them under the law. Of course, some building workers, if they are not properly trained and protected, may disturb asbestos-containing materials and, in so doing, increase the risk to themselves and others.

Fact three: Removal is often *not* a school district's or other building owner's best course of action to reduce asbestos exposure. In fact, an improper removal can create a dangerous situation where none previously existed.

It is important to understand that, for most situations, EPA's asbestos regulations for schools under the Asbestos Hazard Emergency Response Act (AHERA) do *not* require removal of asbestos. These regulations allow the school to decide whether asbestos removal, or some other response action, is the best option to protect the health of school students and employees. In general, asbestos removal is most appropriate when asbestos materials, such as pipe or boiler insulation, are damaged beyond repair.

Although we believe most asbestos removals are being conducted properly, asbestos removal practices by their very nature disturb the material and significantly elevate airborne fiber levels. Unless all safeguards are properly applied and strictly followed, exposure in the building can rise, perhaps to levels where we know disease can occur. Consequently, an ill-conceived or poorly conducted removal project can actually *increase* rather than eliminate risk.

Fact four: EPA only requires asbestos removal in order to prevent significant public exposure to asbestos, such as during building renovation or demolition.

Prior to a major renovation or demolition, asbestos material that is likely to be disturbed or damaged to the extent that significant amounts of asbestos would be released must be removed using approved practices under EPA's asbestos National Emission Standard for Hazardous Air Pollutants (NESHAP) regulation. Demolishing a building containing large amounts of asbestos, for example, would likely result in significantly increased exposure and could create an imminent hazard. Clearly, asbestos removal before the wrecking ball swings into action is appropriate to protect public health. However, this cannot be said of arbitrary asbestos removal projects, which, as noted above, can actually increase health risk unless properly performed. This, in part, is why EPA has *not* mandated asbestos removal from schools or other buildings beyond the NESHAP requirement, which has the effect of gradually and rationally taking all remaining asbestos building materials out of the inventory.

Fact five: EPA *does* recommend in-place management whenever asbestos is discovered.

Instead of removal, a conscientious in-place management program will usually control fiber releases, particularly when the materials are not significantly damaged and are not likely to be disturbed. That is why Congress mandated such a program in schools through AHERA.

In-place management, of course, does *not* mean "do nothing." It means, first, that the building owner or manager should *identify asbestos*, through a building-wide inventory or on a case-by-case basis before suspect materials are disturbed by renovations or other actions. The AHERA program requires an inventory of all asbestos materials in schools by properly accredited individuals.

After the material is identified, the school's personnel, building owner or manager can then *institute controls* to ensure that the day-to-day management of the building is carried out in a manner that prevents or minimizes the release of asbestos fibers into the air. These controls will ensure that when asbestos fibers are released, either accidentally or intentionally, proper management and cleanup procedures are implemented.

Another concern of EPA and other Federal, State and local agencies which regulate asbestos is to ensure proper worker training and protection. Maintenance and service workers in buildings, in the course of their daily activities, may disturb materials and can thereby elevate asbestos fiber levels, especially for themselves, if they are not properly trained and protected. For these persons, risk may be significantly higher than for other building occupants. Proper worker training and protection, as part of an active in-place management program, can reduce any unnecessary asbestos exposure for these workers and others. AHERA requires this training for school employees whose job activities may result in asbestos disturbances.

In addition to the steps outlined above, an in-place management program will usually include *notification* to workers and occupants of the existence of asbestos in their building, periodic *surveillance* of the material, and proper *recordkeeping*. EPA requires all of these activities for schools and strongly recommends that other building owners also establish comprehensive asbestos management programs. Without such programs, asbestos materials could be damaged or deteriorate, which may result in elevated levels of airborne asbestos fibers.

While the management costs of all the above activities will depend upon the amount, condition, and location of the materials, such a program need not be expensive. In many instances, an in-place management program may be all that is necessary to control the release of asbestos fibers, until the asbestos-containing material in a building is scheduled for removal because of renovation or demolition activities.

In summary, EPA's best advice on asbestos is neither to rip it all out in a panic nor to ignore the problem under the false presumption that asbestos is "risk free." Rather, we recommend a practical approach that protects public health by emphasizing that asbestos material in buildings should be located, that it should be appropriately managed, and that those workers who may disturb it should be properly trained and protected. That has been, and continues to be, EPA's position.

If you have questions or need additional information about asbestos in schools and other buildings, please call EPA's Toxics Hotline at (202) 554–1404 or write the Environmental Assistance Division (TS–799), Office of Pesticides and Toxics Substances, 401 M Street, Washington, DC 20460.

Sincerely,
William K. Reilly.

Dated: March 26, 1991.

Mark A. Greenwood,

Director, Office of Toxic Substances.

[FR Doc. 91–7686 Filed 4–1–91; 8:45 am]
BILLING CODE 6560–50–F

[OPTS–62095; FRL 3771–6]

Polychlorinated Biphenyls in Natural Gas Pipelines; Availability of Draft Guidance

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of availability of draft guidance.

SUMMARY: This notice announces the availability of draft technical guidance documents for comment. One document addresses the issue of abandonment-in-place of natural gas transmission pipeline which previously has been contaminated with polychlorinated biphenyls (PCBs). The second document addresses the storage of natural gas pipeline that has been removed from the ground, for which there had been no PCB disposal approval specifying removal and storage requirements. The Agency has developed this document to provide the interstate natural gas transmission companies specific information on how to classify for disposal, sections of natural gas pipeline

that are in storage and that they wish to abandon in place or that are in storage and that may have been exposed to PCBs prior to being placed into storage.

DATES: Written comment on the Technical Guidance documents must be submitted on or before July 1, 1991.

ADDRESSES: Three copies of comments identified with the document control number (OPTS 62095) must be submitted to: TSCA Public Docket Office (TS–793), Office of Toxic Substances, rm. NE–G004, Environmental Protection Agency, 401 M St., SW., Washington DC 20460. A public record has been established and is available in the TSCA Public Docket Office at the above address from 8 a.m. to 12 noon and 1 p.m. to 4 p.m., Monday through Friday, except legal holidays.

FOR FURTHER INFORMATION CONTACT: Michael M. Stahl, Director, Environmental Assistance Division (TS–799), Office of Toxic Substances, rm. E–543B, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460, (202) 554–1404, TDD (202) 554–0551, FAX (202) 554–5603 (document requests only).

SUPPLEMENTARY INFORMATION: Under a 1987 memorandum of understanding with the Federal Energy Regulatory Commission (FERC), EPA reviews all applications by interstate natural gas companies to remove or abandon in place portions of their systems which have been contaminated with PCBs at 50 ppm or greater. The purpose of this review is to determine whether or not the removal or abandonment project is in compliance with TSCA PCB regulations at 40 CFR part 761. This guidance does not relate to a company's compliance with any other Federal, State or local law. Natural gas pipeline which has been exposed to PCBs is a PCB Article under 40 CFR 761.3. In 1981, EPA had determined through its inspections that 13 of the 24 interstate natural gas transmission companies had PCBs in their system at concentrations of 50 ppm or greater. Because PCBs are mobile within these systems, the precise location of the contamination within the system is not known without sufficient sampling. The purpose of completing these technical guidance documents is to provide information to the interstate natural gas transmission companies in (1) characterizing their systems in terms of the PCB levels that are present at those portions of the system which they wish to abandon in place (see the document entitled "Technical Guidance for the Abandonment in Place of Interstate Natural Gas Pipeline Systems"), and (2) determining whether pipe that has been removed and stored for disposal has been contaminated with PCBs (see the document entitled "Guidance on Classification for Purposes of Disposal of Stored Natural Gas Pipe Which Was Not Part of a Pipe Removal Project Carried Out Under An EPA-Approved PCB Disposal Activity"). Copies of the technical guidance may be obtained from the Agency at the address listed under FOR FURTHER INFORMATION CONTACT.

Dated: March 26, 1991.

Elizabeth F. Bryan,

Acting Director, Exposure Evaluation Division, Office of Toxic Substances.

[FR Doc. 91–7687 Filed 4–1–91; 8:45 am]

BILLING CODE 6560–50–F

FEDERAL EMERGENCY MANAGEMENT AGENCY

[FEMA–897–DR]

Georgia: Amendment to Notice of Major Disaster Declaration

AGENCY: Federal Emergency Management Agency.

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster for the State of Georgia (FEMA–897–DR), dated March 15, 1991, and related determinations.

DATED: March 21, 1991.

FOR FURTHER INFORMATION CONTACT: Neva K. Elliott, Disaster Assistance Programs, Federal Emergency Management Agency, Washington, DC 20472 (202) 646–3614.

Notice

The notice of a major disaster for the State of Georgia, dated March 15, 1991, is hereby amended to include the following areas among those areas determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of March 15, 1991:

The counties of Clinch, Jeff Davis, and Ware for Individual Assistance and Public Assistance.

Notice is hereby given that the incident period for this disaster is closed effective March 21, 1991.

(Catalog of Federal Domestic Assistance No. 83.516, Disaster Assistance.)

Grant C. Peterson,

Associate Director, State and Local Programs and Support, Federal Emergency Management Agency.

[FR Doc. 91–7689 Filed 4–1–91; 8:45 am]

BILLING CODE 6718–02–M

[FEMA–895–DR]

Mississippi; Amendment to Notice of Major Disaster Declaration

AGENCY: Federal Emergency Management Agency.

ACTION Notice.

SUMMARY: This notice amends the notice of a major disaster for the State of Mississippi (FEMA–895–DR), dated March 5, 1991, and related determinations.

DATED: March 21, 1991.

FOR FURTHER INFORMATION CONTACT: Neva K. Elliott, Disaster Assistance Programs, Federal Emergency Management Agency, Washington, DC 20472 (202) 646–3614.

Notice.

Notice is hereby given that the incident period for this disaster is closed effective March 21, 1991.

(Catalog of Federal Domestic Assistance No. 83.516, Disaster Assistance.)

Grant C. Peterson,

Associate Director, State and Local Programs and Support, Federal Emergency Management Agency.

[FR Doc. 91–7690 Filed 4–1–91; 8:45 am]

BILLING CODE 6718–02–M

[FEMA–898–DR]

New York; Major Disaster and Related Determinations

AGENCY: Federal Emergency Management Agency.

ACTION: Notice.

SUMMARY: This is a notice of the Presidential declaration of a major disaster for the State of New York (FEMA–898–DR), dated March 21, 1991, and related determinations.

DATES: March 21, 1991.

FOR FURTHER INFORMATION CONTACT: Neva K. Elliot, Disaster Assistance Programs, Federal Emergency Management Agency, Washington, DC 20472 (202) 646–3614.

Notice

Notice is hereby given that, in a letter dated March 21, 1991, the President declared a major disaster under the authority of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 *et seq.*, Pub. L. 93–288, as amended by Pub. L. 100–707), as follows:

I have determined that the damage in certain areas of the State of New York, resulting from a severe winter storm on

March 3–4, 1991, is of sufficient severity and magnitude to warrant a major disaster declaration under the Robert T. Stafford Disaster Relief and Emergency Assistance Act ("the Stafford Act"). I, therefore, declare that such a major disaster exists in the State of New York.

In order to provide Federal assistance, you are hereby authorized to allocate from funds available for these purposes, such amounts as you find necessary for Federal disaster assistance and administrative expenses.

You are authorized to provide Public Assistance in the designated areas. Consistent with the requirement that Federal assistance be supplemental, any Federal funds provided under the Stafford Act for Public Assistance will be limited to 75 percent of the total eligible costs.

I am also authorizing implementation of the disaster loan program of the Small Business Administration and the emergency loan program of the Farmers Home Administration.

The time period prescribed for the implementation of section 310(a), Priority to Certain Applications or Public Facility and Public Housing Assistance, shall be for a period not to exceed six months after the date of this declaration.

Notice is hereby given that pursuant to the authority vested in the Director of the Federal Emergency Management Agency under Executive Order 12148, I hereby appoint Richard A. Buck of the Federal Emergency Management Agency to act as the Federal Coordinating Officer for this declared disaster.

I do hereby determine the following areas of the State of New York to have been affected adversely by this declared major disaster:

The counties of Allegheny, Genesee, Jefferson, Lewis, Livingston, Monroe, Ontario, Orleans, St. Lawrence, Steuben, Wayne, Wyoming, and Yates.

(Catalog of Federal Domestic Assistance No. 83.516 Disaster Assistance)

Wallace E. Stickney,

Director, Federal Emergency Management Agency.

[FR Doc. 91–7691 Filed 4–1–91; 8:45 am]

BILLING CODE 6718–02–M

Emergency Food and Shelter National Board Program Amendment

AGENCY: Federal Emergency Management Agency.

ACTION: Notice.

SUMMARY: This notice expands the Emergency Food and Shelter (EFS) National Board Program Plan's listing of localities selected for funding, which was published in part 2 of the **Federal Register** (February 21, 1991) at 56 FR 7086.

The selections are based on unemployment data for the period September 1990 through November 1990. Jurisdictions, including balance of counties, had to have met the following criteria to qualify:

A minimum of 1,000 unemployed with a 4.4% rate of unemployment and 0.4% increase (during the September 1990 through November 1990 period).

DATED: February 14, 1991.

FOR FURTHER INFORMATION CONTACT: Fran McCarthy, Individual Assistance Division, Disaster Assistance Programs, FEMA, Washington, DC 20472, (202) 646–3652, or Robert G. Chappell, Chairman, National Board for Emergency Food and Shelter, (202) 646–3615.

SUPPLEMENTARY INFORMATION: The criteria for this reallocation were determined by the Emergency Food and Shelter National Board with the most recent unemployment data.

Dated: March 25, 1991.

Grant C. Peterson,

Associate Director, State and Local Programs and Support.

The following is a listing of jurisdictions that meet the above requirements:

EMERGENCY FOOD AND SHELTER PROGRAM PHASE IX NATIONAL BOARD REALLOCATION ONE

Alabama	188,861.00
9–0038–00; Blount County	9,002.00
9–0046–00; Chambers County	8,319.00
9–0050–00; Chilton County	9,965.00
9–0060–00; Coffee County	9,134.00
9–0068–00; Covington County	9,585.00
9–0072–00; Cullman County	16,521.00
9–0078–00; De Kalb County	15,876.00
9–0084–00; Etowah County	34,937.00
9–0102–00; Jackson County	15,309.00
9–0110–00; Lauderdale County	18,634.00
9–0130–00; Marshall County	22,541.00
9–0136–00; Monroe County	6,016.00
9–0152–00; Russell County	11,022.00
Alaska	15,752.00
9–0202–00; Kenai Peninsula Borough	15,752.00
Arizona	123,779.00
9–0242–00; Apache County	15,721.00
9–0270–00; Navajo County	21,290.00
9–0278–00; Santa Cruez County	11,830.00
9–0282–00; Yuma County	74,938.00
Arkansas	35,007.00
9–0372–00; Jefferson County	22,207.00
9–0408–00; Ouachita County	12,800.00
California	1,657,251.00
9–0676–00; Glenn County	9,088.00
9–0695–00; Los Angeles City/County	500,000.00
9–0760–00; Madera County	33,415.00
9–0768–00; Mendocino County	20,249.00
9–0770–00; Merced County	59,979.00
9–0776–00; Monterey County	101,720.00
9–0820–00; Riverside County	244,715.00
9–0828–00; San Benito County	15,511.00
9–0830–00; San Bernardino County	231,014.00

EMERGENCY FOOD AND SHELTER PROGRAM PHASE IX NATIONAL BOARD REALLOCATION ONE—Continued

9–0860–00; San Joaquin County	138,475.00
9–0900–00; Siskiyou County	15,744.00
9–0912–00; Stanislaus County	133,286.00
9–0916–00; Sutter County	28,661.00
9–0918–00; Tehama County	12,839.00
9–0922–00; Tulare County	112,355.00
Connecticut	167,773.00
9–1458–00; New Haven Census County	167,773.00
Delaware	19,372.00
9–1480–00; Kent County	19,372.00
District of Columbia	131,966.00
9–1492–00; District of Columbia	131,966.00
Florida	75,932.00
9–1644–00; Indian River County	27,395.00
9–1646–00; Jackson County	8,971.00
9–1668–00; Marion County	39,566.00
Georgia	40,483.00
9–1850–00; Coweta County	10,641.00
9–1930–00; Henry County	9,872.00
9–1998–00; Newton County	10,680.00
9–2078–00; Walton County	9,290.00
Illinois	17,608.00
9–2418–00; Effingham County	9,064.00
9–2524–00; Perry County	8,544.00
Indiana	73,766.00
9–2650–00; Dearborn County	11,325.00
9–2662–00; Elkhart County	40,685.00
9–2666–00; Fayette County	10,191.00
9–2748–00; Noble County	11,565.00
Louisiana	8,272.00
9–3654–00; Morehouse Parish	8,272.00
Maine	68,989.00
9–3726–00; Androscoggin County	22,331.00
9–3744–00; Oxford County	11,371.00
9–3746–00; Penobscot County	24,498.00
9–3752–00; Somerset County	10,789.00
Maryland	236,691.00
9–3790–00; Dorchester County	8,264.00
9–3812–00; Somerset County	8,761.00
9–3816–00; Washington County	25,616.00
9–3818–00; Wicomico County	15,667.00
9–3820–00; Worcester County	10,711.00
9–3822–00; Baltimore City	167,672.00
Massachusetts	882,594.00
9–4476–00; Barnstable County	48,025.00
9–4478–00; Berkshire County	30,471.00
9–4482–00; Bristol County	149,815.00
9–4490–00; Essex County	151,407.00
9–4500–00; Franklin County	14,727.00
9–4502–00; Hampden County	89,106.00
9–4540–00; Plymouth County	103,421.00
9–4550–00; Suffolk County	135,500.00
9–4554–00; Worcester County	160,122.00
Michigan	28,731.00
9–4674–00; Delta County	11,255.00
9–4760–00; Marquette County	17,476.00
Minnesota	11,247.00
9–4944–00; Freeborn County	11,247.00
Mississippi	47,892.00
9–5106–00; Chickasaw County	9,049.00
9–5184–00; Marshall County	9,996.00
9–5186–00; Monroe County	10,299.00
9–5200–00; Pearl River County	8,715.00
9–5224–00; Sunflower County	9,833.00
Missouri	60,010.00
9–5382–00; Jefferson County	49,470.00
9–5388–00; Laclede County	10,540.00
New Hampshire	203,323.00
9–5921–00; Cheshire and Sullivan County	8,171.00
9–5908–00; Belknap and Merrimack Counties	34,409.00

EMERGENCY FOOD AND SHELTER PROGRAM PHASE IX NATIONAL BOARD REALLOCATION ONE—Continued

9-5922-00; Coos County	8,342.00
9-5926-00; Hillsborough County	75,474.00
9-5936-00; Rockingham County	55,567.00
9-5938-00; Strafford County	21,360.00
New York	500,000.00
9-6314-00; New York City	500,000.00
North Carolina	103,531.00
9-6368-00; Columbus County	8,692.00
9-6418-00; Halifax County	9,624.00
9-6492-00; Robeson County	23,434.00
9-6494-00; Rockingham County	14,944.00
9-6498-00; Rutherford County	10,043.00
9-6502-00; Scotland County	8,684.00
9-6516-00; Vance County	11,356.00
9-6534-00; Wilson County	16,754.00
Ohio	28,778.00
9-6806-00; Marion County	16,987.00
9-6836-00; Perry County	11,791.00
Oklahoma	148,268.00
9-6896-00; Oklahoma City/ Canadian, McLain, Oklahoma Cos.	128,734.00
9-7002-00; McCurtain County	8,264.00
9-7044-00; Pottawatomie County	11,270.00
Oregon	43,426.00
9-7108-00; Douglas County	26,618.00
9-7124-00; Klamath County	16,808.00
Pennsylvania	663,588.00
9-7174-00; Bethlehem/ Lehigh, Northampton Counties	47,139.00
9-7184-00; Armstrong County	17,150.00
9-7188-00; Bedford County	13,841.00
9-7218-00; Clarion County	11,923.00
9-7222-00; Clinton County	10,556.00
9-7250-00; Franklin County	20,902.00
9-7256-00; Huntingdon County	13,872.00
9-7262-00; Juniata County	7,876.00
9-7282-00; Luzerne County	84,446.00
9-7284-00; Lycoming County	30,836.00
9-7286-00; McKean County	10,796.00
9-7292-00; Monroe County	22,424.00
9-7310-00; Philadelphia City/ County	314,986.00
9-7318-00; Snyder County	9,639.00
9-7334-00; Washington County	37,291.00
9-7336-00; Wayne County	9,911.00
Rhode Island	229,126.00
9-7354-00; Providence Census County	157,652.00
9-7368-00; State Set-Aside Committee, RI	71,474.00
South Carolina	66,658.00
9-7376-00; Anderson County	26,929.00
9-7396-00; Chester County	10,043.00
9-7430-00; Kershaw County	8,847.00
9-7442-00; Marion County	9,538.00
9-7448-00; Oconee County	11,301.00
Tennessee	58,907.00
9-7628-00; Campbell County	8,855.00
9-7676-00; Greene County	15,659.00
9-7728-00; McMinn County	12,171.00
9-7742-00; Maury County	12,264.00
9-7746-00; Monroe County	9,958.00
Texas	23,123.00
9-8146-00; Hunt County	15,255.00
9-8452-00; Willacy County	7,868.00
Vermont	19,014.00
9-8558-00; Franklin County	7,899.00
9-8570-00; Washington County	11,115.00
Virginia	62,502.00

EMERGENCY FOOD AND SHELTER PROGRAM PHASE IX NATIONAL BOARD REALLOCATION ONE—Continued

9-8670-00; Henry County	18,113.00
9-8720-00; Pittsylvania County	13,973.00
9-8730-00; Pulaski County	12,171.00
9-8752-00; Spotsylvania County	8,699.00
9-8764-00; Washington County	9,546.00
West Virginia	20,024.00
9-8990-00; Jackson County	8,047.00
9-9040-00; Randolph County	11,977.00
Wisconsin	18,316.00
9-9148-00; Grant County	10,424.00
9-9184-00; Marinette County	7,892.00
Total	6,080,560.00

[FR Doc. 91-7292 Filed 4-1-91; 8:45 a.m.]

BILLING CODE 6718-02-M

FEDERAL MARITIME COMMISSION

[Agreement No. 224-010825-005 et al.]

City of Los Angeles et al.; Agreement(s) Filed

The Federal Maritime Commission hereby gives notice of the filing of the following agreement(s) pursuant to section 5 of the Shipping Act of 1984.

Interested parties may inspect and obtain a copy of each agreement at the Washington, DC Office of the Federal Maritime Commission, 1100 L Street, NW., room 10220. Interested parties may submit comments on each agreement to the Secretary, Federal Maritime Commission, Washington DC 20573, within 10 days after the date of the Federal Register in which this notice appears. The requirements for comments are found in § 572.603 of title 46 of the Code of Federal Regulations. Interested persons should consult this section before communicating with the Commission regarding a pending agreement.

Agreement No: 224-010825-005.

Title: City of Los Angeles/Evergreen Marine Corporation Settlement Agreement.

Parties: City of Los Angeles (City), Evergreen Marine Terminal Corporation (Evergreen).

Synopsis: The Agreement, filed March 25, 1991, provides for Evergreen to pay certain unpaid electrical lighting charges ($124,395.36) at the City's terminal accruing from December 13, 1988 to July 13, 1989; and for the City to absorb the unpaid electrical lighting charges ($219,139.66) for the period from August 21, 1987 to December 13, 1988. Evergreen agrees to pay the City said charges within ten working days of the effective date of this Agreement.

Agreement No.: 224-200486.

Title: City of Los Angeles/Pasha Properties, Inc., Terminal Agreement.

Parties: City of Los Angeles, Pasha Properties, Inc.

Synopsis: The Agreement, filed March 20, 1991, provides for the 10-year assignment of berths and approximately 25 acres of terminal area for docking of vessels and related terminal activities involving handling, loading and unloading of vehicles from vessels.

Agreement No.: 224-200488.

Title: Port of Oakland/Yang Ming Marine Transport Corporation Terminal Agreement

Parties: Port of Oakland (Port), Yang Ming Marine Transport Corporation (Yang Ming).

Synopsis: The Agreement, filed March 22, 1991, provides Yang Ming a 5-year nonexclusive right to use certain assigned premises at the Port's Seventh Street Marine Container Terminal for activity related to the berthing, loading and discharging of its vessels. In return for its regular use of the Port, Yang Ming will pay reduced dockage and wharfage charges.

Agreement No.: 224-200489

Title: Georgia Ports Authority/Yang Ming Marine Transport Corporation Terminal Agreement.

Parties: Georgia Ports Authority (GPA), Yang Ming Marine Transport Corporation (YMTC).

Synopsis: The Agreement, filed March 25, 1991, provides for: YMTC's initial 3-year non-exclusive of GPA's Garden City Terminal located at the Port of Savannah, Georgia (Port); and, YMTC to pay wharfage, dockage, crane rental and slot use rates on a sliding scale based on the tonnage YMTC moves through the Port.

By Order of the Federal Maritime Commission.

Dated: March 27, 1991.

Joseph C. Polking,

Secretary.

[FR Doc. 91 7616 Filed 4-1-91; 8:45 am]

BILLING CODE 6730-01-M

Westbound Transpacific Stabilization; Agreement(s) Filed

The Federal Maritime Commission hereby gives notice of the filing of the following agreement(s) pursuant to section 5 of the Shipping Act of 1984.

Interested parties may inspect and obtain a copy of each agreement at the Washington, DC Office of the Federal Maritime Commission, 1100 L Street NW., room 10325. Interested parties may submit comments on each agreement to the Secretary, Federal Maritime

Commission, Washington, DC 20573, within 10 days after the date of the Federal Register in which this notice appears. The Requirements for comments are found in § 572.603 of title 46 of the code of Federal Regulations. Interested persons should consult this section before communicating with the Commission regarding a pending agreement.

Agreement No.: 203–011325.

Title: Westbound Transpacific Stabilization Agreement.

Parties: TWRA Conference Parties.
American President Lines, Ltd.
Kawasaki Kisen Kaisha, Ltd.
A.P. Moller-Maersk Line.
Mitsui O.S.K. Lines, Ltd.
Neptune Orient Lines, Ltd.
Nippon Liner System, Ltd.
Nippon Yusen Kaisha, Ltd.
Sea-Land Service, Inc.
Independent Carrier Parties.
Evergreen Marine Corporation.
Hanjin Shipping Co., Ltd.
Hyundai Merchant Marine Co., Ltd.
Orient Overseas Container Line.
Yang Ming Lines.

Synopsis: The proposed Agreement would permit the parties to meet, discuss, exchange information and reach consensus on matters in the Westbound U.S./Far East Trade. Adherence to any agreement reached by the parties is strictly voluntary.

Dated: March 27, 1991.

By Order of the Federal Maritime Commission.

Joseph C. Polking,

Secretary.

[FR Doc. 91–7629 Filed 4–1–91; 8:45 am]

BILLING CODE 6730–01M

[Docket No. 91–17]

Filing of Complaint and Assignment

Notice is given that a complaint filed by Consumer Electronics Shippers Association, Inc. ("Complainant") against Asia North America Eastbound Rate Agreement (ANERA); American President Lines, Ltd.; Sea-Land Service, Inc.; Neptune Orient Lines, Ltd.; A.P. Moller (Maersk Lines); Kawasaki Kisen Kaisha Line; Mitsui O.S.K. Lines, Ltd.; and Nippon Liner Systems, Ltd. (hereinafter collectively referred to as "Respondents") was served March 27, 1991. Complainant alleges that respondents have been and continue to violate sections 8(c), 10(b) (5), (10), (11), and (12) and 10(c)(1) of the Shipping Act of 1984, 46 U.S.C. app. 1707(c), 1709(b) (5), (10), (11), and (12) and (c)(1) through the inclusion in its service contract offers of a New Shippers Association Surcharge and the exclusion of a Most Favored Shipper's Clause.

This proceeding has been assigned to Administrative Law Judge Norman D. Kline ("Presiding Officer"). Hearing in this matter, if any is held, shall commence within the time limitations prescribed in 46 CFR 502.61. The hearing shall include oral testimony and cross-examination in the discretion of the Presiding Officer only upon proper showing that there are genuine issues of material fact that cannot be resolved on the basis of sworn statements, affidavits, depositions, or other documents or that the nature of the matter in issue is such that an oral hearing and cross-examination are necessary for the development of an adequate record. Pursuant to the further terms of 46 CFR 502.61, the initial decision of the Presiding Officer in this proceeding shall be issued by March 30, 1992, and the final decision of the Commission shall be issued by July 28, 1992.

Joseph C. Polking,

Secretary.

[FR Doc. 91–7639 Filed 4–1–91; 8:45 am]

BILLING CODE 6730–01–M

FEDERAL RESERVE SYSTEM

CNBC Bancorp, Inc.; Acquisition of Company Engaged in Permissible Nonbanking Activities

The organization listed in this notice has applied under § 225.23(a)(2) or (f) of the Board's Regulation Y (12 CFR 225.23(a)(2) or (f)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to acquire or control voting securities or assets of a company engaged in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies. Unless otherwise noted, such activities will be conducted throughout the United States.

The application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Comments regarding the application must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than April 22, 1991.

A. Federal Reserve Bank of Chicago (David S. Epstein, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. CNBC Bancorp, Inc., Chicago, Illinois; to acquire Fort Dearborn Federal Savings and Loan Association, Chicago, Illinois, and thereby engage in the operation of a federally-chartered savings association pursuant to § 225.25(b)(9) of the Board's Regulation Y. These activities will be conducted in the State of Illinois.

Board of Governors of the Federal Reserve System, March 27, 1991.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 91-7643 Filed 4-1-91; 8:45 am]

BILLING CODE 6210-01-F

Decatur Corp., et al.; Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) and § 225.14 of the Board's Regulation Y (12 CFR 225.14) to become a bank holding company or to acquire a bank or bank holding company. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank or to the offices of the Board of Governors. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute

and summarizing the evidence that would be presented at a hearing.

Unless otherwise noted, comments regarding each of these applications must be received not later than April 22, 1991.

A. Federal Reserve Bank of Chicago (David S. Epstein, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. Decatur Corporation, Leon, Iowa; to acquire 99 percent of the voting shares of Citizens Bank of Princeton, Princeton, Missouri, formerly named Citizens Bank of Newtown, Newtown, Missouri.

2. FSB Bancorp, Wever, Iowa; to become a bank holding company by acquiring 67.6 percent of the voting shares of Farmers Savings Bank, Wever, Iowa.

3. Royal Bancshares, Inc., Elroy, Wisconsin; to acquire 100 percent of the voting shares of BGM Bancorporation, Gays Mills, Wisconsin, and thereby indirectly acquire 96 percent of the voting shares of Liberty Bank and Trust, Gays Mills, Wisconsin.

B. Federal Reserve Bank of Minneapolis (James M. Lyon, Vice President) 250 Marquette Avenue, Minneapolis, Minnesota 55480:

1. Community First Bankshares, Inc., Fargo, North Dakota; to acquire 100 percent of the voting shares of Adams Investment Company, Fergus Falls, Minnesota, and thereby indirectly acquire First National Bank, Fergus Falls, Minnesota.

C. Federal Reserve Bank of Kansas City (Thomas M. Hoenig, Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

1. FEO Investments, Inc., Hoskins, Nebraska; to become a bank holding company by acquiring 82.9 percent of the voting shares of Commercial State Bank, Hoskins, Nebraska.

2. Orchard Bancorp, Orchard, Nebraska; to become a bank holding company by acquiring 100 percent of the voting shares of Bank of Orchard, Orchard, Nebraska.

Board of Governors of the Federal Reserve System, March 27, 1991.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 91-7644 Filed 4-1-91; 8:45 am]

BILLING CODE 6210-01-F

Dennis M. Monaghan; Change in Bank Control Notice Acquisition of Shares of Banks or Bank Holding Companies

The notificant listed below has applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire a bank or bank holding company. The factors that are considered in acting on notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notice is available for immediate inspection at the Federal Reserve Bank indicated. Once the notice has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for the notice or to the offices of the Board of Governors. Comments must be received not later than April 22, 1991.

A. Federal Reserve Bank of Kansas City (Thomas M. Hoenig, Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

1. Dennis M. Monaghan, Omaha, Nebraska; to acquire an additional 54.2 percent of the voting shares of Ashland BancShares, Inc., Ashland, Nebraska, for a total of 67.0 percent and thereby indirectly acquire Ashland State Bank, Ashland, Nebraska.

Board of Governors of the Federal Reserve System, March 27, 1991.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 91-7646 Filed 4-1-91; 8:45 am]

BILLING CODE 6210-01-F

Harmonia Bancorp, Inc., et al.; Notice of Applications to Engage de novo in Permissible Nonbanking Activities

The companies listed in this notice have filed an application under § 225.23(a)(1) of the Board's Regulation Y (12 CFR 225.23(a)(1)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to commence or to engage *de novo*, either directly or through a subsidiary, in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies. Unless otherwise noted, such activities will be conducted throughout the United States.

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Unless otherwise noted, comments regarding the applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than April 22, 1991.

A. Federal Reserve Bank of New York (William L. Rutledge, Vice President) 33 Liberty Street, New York, New York 10045:

1. Harmonia Bancorp, Inc., Kenilworth, New Jersey; to engage *de novo* in certain commercial financing activities pursuant to § 225.25(b)(1) of the Board's Regulation Y.

B. Federal Reserve Bank of Atlanta (Robert E. Heck, Vice President) 104 Marietta Street, NW., Atlanta, Georgia 30303:

1. Southern Bank Group, Inc., Roswell, Georgia; to engage *de novo* in leasing personal or real property pursuant to § 225.25(b)(5); real estate and personal property appraising pursuant to § 225.25(b)(13); providing investment or financial advice pursuant to § 225.25(b)(4); and making and servicing loans pursuant to § 225.25(b)(1) of the Board's Regulation Y. These activities will be conducted in the State of Georgia.

Board of Governors of the Federal Reserve System, March 27, 1991.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 91-7645 Filed 4-1-91; 8:45 am]

BILLING CODE 6210-01-F

Norwest Corp.; Acquisition of Company Engaged in Permissible Nonbanking Activities

Norwest Corporation, Minneapolis, Minnesota ("Norwest"); Norwest Financial, Des Moines, Iowa and Norwest Financial Services, Inc., Des Moines, Iowa, has applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) ("BHC Act") and § 225.23(a)(3) of the Board's Regulation Y (12 CFR 225.23(A)(3)), for permission to engage, indirectly, through their existing subsidiary, Norwest Financial Leasing, Des Moines, Iowa ("Norwest Leasing"),

in certain leasing activities involving the leasing of personal property, and/or acting as agent, broker, or advisor in leasing such property pursuant to the Board's Regulation Y (12 CFR 225.25(b)(5)). The initial leases to be acquired will be purchased from the affiliated Dial Bank, Sioux Falls, South Dakota. These activities will be conducted throughout the United States.

In this application, Norwest proposes to expand its leasing activities to include leasing transactions that comply with all of the conditions of Regulation Y except as set out below. Norwest is requesting the Board's prior approval to engage in leasing transactions the terms of which will allow Norwest Leasing to rely for its compensation on the estimated residual value of the property at the expiration of the initial term of the lease in excess of 20 percent of the acquisition cost of the property ("higher residual value leasing"). Norwest has stated that it will limit such leases with estimated residual values in excess of 25 percent of acquisition cost to no more than 10 percent of Norwest Financial's total consolidated assets. Regulation Y currently limits residual value reliance to no more than 20 percent of the acquisition cost of the property to the lessor. 12 CFR 225.25(b)(5)(iv)(C).

Section 4(c)(8) of the BHC Act provides that a bank holding company may engage in any activity which the Board has determined to be "so closely related to banking or managing or controlling banks as to be a proper incident thereto." The Board has previously determined that higher residual value leasing is closely related to banking for purposes of section 4(c)(8). The Dai-Ichi Kangyo Bank, Limited, 76 Federal Reserve Bulletin 960 (1990); Security Pacific Corporation, 76 Federal Reserve Bulletin 462 (1990).

In determining whether an activity meets the second, or proper incident to banking test of section 4(c)(8), the Board must consider whether the performance of the activity by an affiliate of a holding company "can reasonably be expected to product benefits to the public, such as greater convenience, increased competition, or gains in efficiency that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interest, or unsound banking practices."

Norwest contends that Norwest Leasing's conduct of the proposed activities will result in significant public benefits that will outweigh possible adverse effects. Norwest states that such public benefits will take the form of increased competition in the leasing industry and improved services to leasing customers.

Any request for a hearing on this application must comply with § 262.3(e) of the Board's Rules of Procedure (12 CFR 262.3(e)).

The application may be inspected at the offices of the Board of Governors or the Federal Reserve Bank of Minneapolis.

Any comments or requests for hearing should be submitted in writing and received by William W. Wiles, Secretary, Board of Governors of the Federal Reserve System, Washington, DC 20551, not later than April 22, 1991.

Board of Governors of the Federal Reserve System, March 27, 1991.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 91-7647 Filed 4-1-91; 8:45 am]

BILLING CODE 6210-01-F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Alcohol, Drug Abuse, and Mental Health Administration

Committee Establishment

ACTION: Notice of establishment.

Pursuant to the Federal Advisory Committee Act of October 6, 1972, (Pub. L. 92-463, 86 Stat. 770-776) the Secretary, Health and Human Services, announces the establishment of the Advisory Committee of the Task Force on Homelessness and Severe Mental Illness on March 2, 1991.

Dated: March 27, 1991.

Frederick K. Goodwin,

Administrator, Alcohol, Drug Abuse, and Mental Health Administration.

[FR Doc. 91-7649 Filed 4-1-91; 8:45 am]

BILLING CODE 4161-20-M

Centers for Disease Control

National Committee on Vital Health Statistics (NCVHS) Subcommittee on Long-Term Care Statistics and Subcommittee on Mental Health Statistics; Meeting

Pursuant to Public Law 92-463, the National Center for Health Statistics (NCHS), Centers for Disease Control, announces the following joint subcommittee meeting.

Name: NCVHS Subcommittee on Long-Term Care Statistics and Subcommittee on Mental Health Statistics.

Time and Date: 9 a.m.—5 p.m., April 18, 1991.

Place: Room 703A-729A, Hubert H. Humphrey Building, 200 Independence Avenue, SW., Washington, DC 20201.

Status: Open.

Purpose: The purpose of this meeting is for the Subcommittees to review measures of functional assessment for impaired persons. Functional assessment includes, at a minimum, measures of activities of daily living and cognitive impairment.

Contact Person for More Information: Substantive program information as well as summaries of the meeting and a roster of committee members may be obtained from Gail F. Fisher, Ph.D., Executive Secretary, NCVHS, NCHS, room 1100, Presidential Building, 6525 Belcrest Road, Hyattsville, Maryland 20782, telephone 301/436-7050 or FTS 436-7050.

Dated: March 22, 1991.

Elvin Hilyer,

Associate Director for Policy Coordination, Centers for Disease Control.

[FR Doc. 91-7659 Filed 4-1-91; 8:45 am]

BILLING CODE 4160-18-M

Food and Drug Administration

[Docket No. 91P-0011]

Cottage Cheese Deviating From Identity Standard; Temporary Permit for Market Testing

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that a temporary permit has been issued to H.P. Hood, Inc., to market test a product designated as "nonfat cottage cheese" that deviates from the U.S. standards of identity for cottage cheese (21 CFR 133.128), dry curd cottage cheese (21 CFR 133.129), and lowfat cottage cheese (21 CFR 133.131). The purpose of the temporary permit is to allow the applicant to measure consumer acceptance of the product, identify mass production problems, and assess commercial feasibility.

DATES: This permit is effective for 15 months, beginning on the date the food is introduced or caused to be introduced into interstate commerce, but not later than July 1, 1991.

FOR FURTHER INFORMATION CONTACT: Shellee A. Davis, Center for Food Safety and Applied Nutrition (HFF-414), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202-485-0343.

SUPPLEMENTARY INFORMATION: In accordance with 21 CFR 130.17

concerning temporary permits to facilitate market testing of foods deviating from the requirements of the standards of identity promulgated under section 401 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 341), FDA is giving notice that a temporary permit has been issued to H.P. Hood, Inc., 500 Rutherford Ave., Boston, MA 02129.

The permit covers limited interstate marketing tests of a nonfat cottage cheese, formulated from dry curd cottage cheese and a dressing, such that the finished product contains 0.34 percent milkfat. The food deviates from the U.S. standards of identity for cottage cheese (21 CFR 133.128) and lowfat cottage cheese (21 CFR 133.131) in that the milkfat content of cottage cheese is not less than 4.0 percent, and the milkfat content of lowfat cottage cheese ranges from 0.5 to 2.0 percent. The test product also deviates from the U.S. standard of identity for dry curd cottage cheese (21 CFR 133.129) because of the added dressing. The product meets all requirements of the standards with the exception of these deviations. The purpose of the variation is to offer the consumer a product that is nutritionally equivalent to cottage cheese but contains less fat.

For the purpose of this permit, the name of the product is "nonfat cottage cheese." The information panel of the label must bear nutrition labeling in accordance with 21 CFR 101.9.

The permit provides for the temporary marketing of a total of 1,250,000 pounds (567,000 kilograms) of test product to be packaged in 8-ounce (227-gram), 16-ounce (454-gram), and 24-ounce (680-gram) containers. The test product is to be manufactured at H.P. Hood, Inc., Vernon, NY 13476, and distributed in Connecticut, Maine, Massachusetts, New Hampshire, New York, Rhode Island, and Vermont.

Each of the ingredients used in the food must be stated on the label as required by the applicable sections of 21 CFR part 101. This permit is effective for 15 months, beginning on the date the food is introduced into interstate commerce, but not later than July 1, 1991.

Dated: March 22, 1991.

Douglas L. Archer,

Acting Director, Center for Food Safety and Applied Nutrition.

[FR Doc. 91-7728 Filed 4-1-91; 8:45 am]

BILLING CODE 4160-01-M

[Docket No. 91P-0043]

Cottage Cheese Deviating From Identity Standard; Temporary Permit for Market Testing

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that a temporary permit has been issued to Safeway, Inc., to market test a product designated as "nonfat cottage cheese" that deviates from the U.S. standards of identity for cottage cheese (21 CFR 133.128), dry curd cottage cheese (21 CFR 133.129), and lowfat cottage cheese (21 CFR 133.131). The purpose of the temporary permit is to allow the applicant to measure consumer acceptance of the product, identify mass production problems, and assess commercial feasibility.

DATES: This permit is effective for 15 months, beginning on the date the food is introduced or caused to be introduced into interstate commerce, but not later than July 1, 1991.

FOR FURTHER INFORMATION CONTACT: Shellee A. Davis, Center for Food Safety and Applied Nutrition (HFF-414), Food and Drug Administration, 200 C Street, SW., Washington, DC 20204, 202-485-0343.

SUPPLEMENTARY INFORMATION: In accordance with 21 CFR 130.17 concerning temporary permits to facilitate market testing of foods deviating from the requirements of the standards of identity promulgated under section 401 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 341), FDA is giving notice that a temporary permit has been issued to Safeway, Inc., Fourth and Jackson Sts., Oakland, CA 94660.

The permit covers limited interstate marketing tests of a nonfat cottage chese, formulated from dry curd cottage cheese and a dressing, such that the finished product contains 0.1 percent milkfat. The food deviates from the U.S. standards of identity for cottage cheese (21 CFR 133.128), dry curd cottage cheese (21 CFR 133.129), and lowfat cottage cheese (21 CFR 133.131) in that the milkfat content of cottage cheese is not less than 4.0 percent, and the milkfat content of lowfat cottage cheese ranges from 0.5 percent to 2.0 percent. The test product also deviates from the U.S. standard of identity for dry curd cottage cheese (21 CFR 133.129) because of the added dressing. The product meets all requirements of the standards with the exception of these deviations. The purpose of the variation is to offer the consumer a product that is nutritionally equivalent to cottage cheese but contains less fat.

For the purpose of this permit, the name of the product is "nonfat cottage cheese." The information panel of the label must bear nutrition labeling in accordance with 21 CFR 101.9.

The permit provides for the temporary marketing of a total of 400,000 pounds (181,440 kilograms) of test product to be packaged in 16-ounce (454-gram) containers. The test product is to be manufactured at Safeway, Inc., Handford, CA 93230; Safeway, Inc., Bellevue, WA 98005-2104; and Safeway, Inc., Denver, CO 80216; and distributed to Arizona, Colorado, Hawaii, Idaho, Montana, Nevada, New Mexico, Oregon, South Dakota, Washington, and Wyoming.

Each of the ingredients used in a food must be stated on the label as required by the applicable sections of 21 CFR part 101. This permit is effective for 15 months, beginning on the date the food is introduced into interstate commerce, but not later than July 1, 1991.

Dated: March 22, 1991.

Douglas L. Archer,

Acting Director, Center for Food Safety and Applied Nutrition.

[FR Doc. 91-7729 Filed 4-1-91; 8:45 am]

BILLING CODE 4160-01-M

[Docket No. 89P-0329]

Eggnog Deviating From Identity Standard; Extension and Amendment of Temporary Permit for Market Testing

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the extension and amendment of a temporary permit issued to H. P. Hood, Inc., to market test a product designated as "light eggnog" that deviates from the U.S. standard of identity for eggnog (21 CFR 131.170) (August 29, 1989; 54 FR 35725). These actions will allow the permit holder to continue experimental market testing of the product while the agency takes action on the permit holder's petition to establish a new standard of identity for "light eggnog.".

DATES: The new expiration date of the permit will be either the effective date of a final rule to establish a new standard of identity for "light eggnog" which may result from the petition, or 30 days after termination of such rulemaking.

FOR FURTHER INFORMATION CONTACT: Shellee A. Davis, Center for Food Safety

and Applied Nutrition (HFF–414), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–485–0343.

SUPPLEMENTARY INFORMATION: FDA issued a temporary permit, under the provisions of 21 CFR 130.17, to H. P. Hood, Inc., 500 Rutherford Ave., Boston, MA 02129, to market test a product designated as "light eggnog" that deviates from the U.S. standard of identity for eggnog (21 CFR 131.170). The agency issued the permit to facilitate market testing of foods that deviate from the requirements of the standards of identity promulgated under section 401 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 341). FDA published a notice of issuance of the temporary permit to H. P. Hood, Inc., in the Federal Register of August 29, 1989 (54 FR 35725).

H. P. Hood, Inc., has requested that the temporary permit be extended so the market test period can continue while agency action on a petition to establish a new standard of identity for "light eggnog" proceeds. The permit holder also requested that their existing temporary permit be amended to provide for market testing on an annual basis of 1,300,650 quarts (1,230,805 liters) of the test product. H. P. Hood, Inc., in accordance with 21 CFR 130.17(i), submitted a petition to establish a new standard of identity for "light eggnog" at the same time the application for extension was submitted.

FDA has issued a number of other temporary marketing permits for light eggnog, all of which have been granted for products containing at least 50 percent less milkfat and ⅓ fewer calories than eggnog. FDA has required that the light eggnog products contain added vitamin A to ensure that they are nutritionally equivalent to eggnog and bear the label statements "reduced calories" and "reduced fat" following the name. In addition, the labels were required to bear the comparative statement, "_____ fewer calories and _____ less fat" with the blanks being filled with 33⅓ percent and 50 percent, respectively. Higher values that reflect the actual formulation could be used in the blanks, if applicable.

FDA finds that it is in the interest of consumers to issue an extension of the time period for the market test. Consumers will benefit from continued tests to determine whether a product that is nutritionally equivalent to eggnog but contains fewer calories and less fat is acceptable.

To minimize the need to grant further extensions for minor variations in the product formulations and labeling, FDA is inviting interested persons to participate in the market test under the conditions that apply to H. P. Hood, Inc., or that comply with the compositional and labeling requirements stated above, except that the designated area of distribution shall not apply. FDA tentatively concludes that it should not be necessary to grant any new temporary permits or to extend any other existing temporary permits for light eggnog.

Any person who wishes to participate in the extended market test must notify, in writing, the Acting Director, Division of Food Chemistry and Technology (HFF–410), Center for Food Safety and Applied Nutrition, Food and Drug Administration, 200 C St. SW., Washington, DC 20204. The notification must include the amount of test product to be distributed, the area of distribution, and the labeling that will be used for the test product (i.e., a label for each size of container and each brand of product to be market tested).

Therefore, under the provisions of 21 CFR 130.17(f), FDA is amending the permit to provide for market testing on an annual basis of 1,300,650 quarts (1,230,805 liters) of the test product and, under the provisions of 21 CFR 130.17(i), FDA is extending the expiration date of the permit such that the permit expires either on the effective date of a final rule to establish a new standard of identity for "light (or lite) eggnog" which may result from the petition, or 30 days after termination of such rulemaking. All other conditions and terms of this permit remain the same.

Dated March 22, 1991.

Douglas L. Archer,

Acting Director, Center for Food Safety and Applied Nutrition.

[FR Doc. 91–7730 Filed 4–1–91; 8:45 am]

BILLING CODE 4160–01–M

[Docket No. 91M–0083]

Isotechnics Inc.; Premarket Approval of Model U101–1P Ultraviolet-Absorbing Posterior Chamber Intraocular Lens

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing its approval of the application for premarket approval under the Medical Device Amendments of 1976 of Model U101–1P Ultraviolet-Absorbing Posterior Chamber Intraocular Lens sponsored by Isotechnics, Inc., Largo, FL. The intraocular lenses are to be manufactured under an agreement with DgR, Inc., St. Petersburg, FL, which has authorized Isotechnics, Inc., to incorporate information contained in DgR, Inc.'s approved premarket application for the Model PA11 Series, Posterior Chamber Intraocular Lenses. FDA's Center for Devices and Radiological Health (CDRH) notified the applicant, by letter of February 28, 1991, of the approval of the application.

DATES: Petitions for administrative review by May 1, 1991.

ADDRESSES: Written requests for copies of the summary of safety and effectiveness data and petitions for administrative review to the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Nancy C. Brogdon, Center for Devices and Radiological Health (HFZ–460), Food and Drug Administration, 1390 Piccard Dr., Rockville, MD 20850, 301–427–1212.

SUPPLEMENTARY INFORMATION: On May 15, 1990, Isotechnics, Inc., Largo, FL 34641, submitted to CDRH an application for premarket approval of Model U101–1P Ultraviolet-Absorbing Posterior Chamber Intraocular Lens and all intraocular lens models manufactured by DgR, Inc., St. Petersburg, FL 33716, under P880072 and its premarket approved supplements. The application includes authorization for DgR, Inc., to incorporate information contained in DgR, Inc.'s approved premarket approval application for the Model PA11 Series, Posterior Chamber Intraocular Lenses. The devices are designed to be used for visual correction of aphakia for primary implantations following extracapsular cataract extractions in patients 60 years of age or older. They are intended for fixation in either the ciliary sulcus or capsular bag. The devices are available in a range of powers from 10 diopters (D) through 30 D in 0.5–D increments.

On February 28, 1991, CDRH approved the application by a letter to the applicant from the Director of the Office of Device Evaluation, CDRH.

A summary of the safety and effectiveness data on which CDRH based its approval is on file in the Dockets Management Branch (address above) and is available from that office upon written request. Requests should be identified with the name of the device and the docket number found in brackets in the heading of this document.

A copy of all approved labeling is available for public inspection at

CDRH—contact Nancy C. Brogdon (HFZ–460), address above.

Opportunity for Administrative Review

Section 515(d)(3) of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 360e(d)(3)) authorizes any interested person to petition, under section 515(g) of the act (21 U.S.C. 360e(g)), for administrative review of CDRH's decision to approve this application. A petitioner may request either a formal hearing under part 12 (21 CFR part 12) of FDA's administrative practices and procedures regulations or a review of the application and CDRH's action by an independent advisory committee of experts. A petition is to be in the form of a petition for reconsideration under § 10.33(b) (21 CFR 10.33(b)). A petitioner shall identify the form of review requested (hearing or independent advisory committee) and shall submit with the petition supporting data and information showing that there is a genuine and substantial issue of material fact for resolution through administrative review. After reviewing the petition, FDA will decide whether to grant or deny the petition and will publish a notice of its decision in the **Federal Register**. If FDA grants the petition, the notice will state the issue to be reviewed, the form of review to be used, the person who may participate in the review, the time and place where the review will occur, and other details.

Petitioners may, at any time on or before May 1, 1991, file with the Dockets Management Branch (address above) two copies of each petition and supporting data and information, identified with the name of the device and the docket number found in brackets in the heading of this document. Received petitions may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

This notice is issued under the Federal Food, Drug, and Cosmetic Act (sections 515(d), 520(h) (21 U.S.C. 360e(d), 360j(h))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10) and redelegated to the Director, Center for Devices and Radiological Health (21 CFR 5.53).

Dated: March 25, 1991.

Elizabeth D. Jacobson,

Acting Deputy Director, Center for Devices and Radiological Health.

[FR Doc. 91–7648 Filed 4–1–91; 8:45 am]

BILLING CODE 4160–01–M

Office of Human Development Services

Fiscal Year 1992 Federal Allotments to States for Developmental Disabilities Basic Support and Protection and Advocacy Formula Grant Programs

AGENCY: Administration on Developmental Disabilities, Office of Human Development Services, HHS.

ACTION: Notification of Fiscal Year 1992 Federal Allotments for States for Developmental Disabilities Basic Support and Protection and Advocacy Formula Grant Programs.

SUMMARY: This notice sets forth the individual allotment for each State for Fiscal Year 1992 pursuant to section 125 of the Developmental Disabilities Assistance and Bill of Rights Act (Act). The allotments for the States published herein are based upon Fiscal Year 1991 appropriation levels.

These allotments reflect the appropriated funds allocated to the States based on the most recent data available for population, extent of need for services for persons with developmental disabilities, and the financial need of the States.

EFFECTIVE DATE: October 1, 1991.

FOR FURTHER INFORMATION CONTACT: Bettye Mobley, Chief, Formula Grants Management Branch, Division of Grants and Contracts Management, Office of Human Development Services, Department of Health and Human Services, 200 Independence Avenue SW., Room 341–F, Washington, DC 20201, telephone (202) 245–7220.

SUPPLEMENTARY INFORMATION: Section 125(a)(2) of the Act requires that adjustments in the amounts of State allotments may be made not more often than annually and that States are to be notified not less than six (6) months before the beginning of any fiscal year of any adjustments to take effect in that fiscal year.

The Administration on Developmental Disabilities updated the data for issuance of Fiscal Year 1991 formula grants and States were notified by **Federal Register** announcement of April 2, 1990. The data elements used are the same as provided in that issuance, which are:

A. The number of beneficiaries in each State and Territory under the Childhood Disabilities Beneficiary Program, December 1988, are from Table 5.J10 of the "Social Security Bulletin: Annual Statistical Supplement 1990" issued by the Social Security Administration, U.S. Department of Health and Human Services. The numbers for the Northern Mariana Islands and the Trust Territories of the Pacific Islands, included under 'Abroad' in the Table, were obtained from the Social Security Administration;

B. State data on Average Per Capita Income, 1986–88, are from Table 1, page 328 of the "Survey of Current Business", August 1990, issued by the Bureau of Economic Analysis, U.S. Department of Commerce; comparable data for the Territories also were obtained from that Bureau; and

C. State data on total population as of July 1, 1988, are from Table 1 of "Current Population Reports: Population Estimates and Projections," Series P–25, Number 1058, issued March 1990 by the Bureau of the Census, U.S. Department of Commerce. The working population (ages 18–64) were from Table 6 of Series P–25, Number 1058. The Territories data on population are from Current Population Report P–25, No. 1049 issued October 1989. The Territories working populations were obtained from Bureau of the Census.

FY 1992 ALLOTMENT—ADMINISTRATION ON DEVELOPMENTAL DISABILITIES

	Basic support	Protection & advocacy
Total	$64,409,000	$20,982,000
Alabama	1,277,052	382,630
Alaska	350,001	200,000
Arizona	839,064	248,533
Arkansas	730,273	224,244
California	5,544,814	1,617,144
Colorado	702,844	219,341
Connecticut	649,369	208,065
Delaware	350,001	200,000
District of Columbia	350,001	200,000
Florida	2,735,959	815,393
Georgia	1,575,911	483,815
Hawaii	350,001	200,000
Idaho	350,001	200,000
Illinois	2,510,742	769,598
Indiana	1,396,902	426,429
Iowa	759,306	233,743
Kansas	585,419	200,000
Kentucky	1,192,557	349,911
Louisiana	1,337,844	412,700
Maine	350,001	200,000
Maryland	881,431	267,076
Massachusetts	1,257,494	358,914
Michigan	2,300,485	687,216
Minnesota	963,546	294,532
Mississippi	910,637	272,898
Missouri	1,257,633	367,993
Montana	350,001	200,000
Nebraska	402,270	200,000
Nevada	350,001	200,000
New Hampshire	350,001	200,000
New Jersey	1,462,782	419,959
New Mexico	444,654	200,000
New York	4,058,809	1,151,025
North Carolina	1,740,521	527,600
North Dakota	350,001	200,000
Ohio	2,748,275	838,160
Oklahoma	877,147	254,348
Oregon	673,525	209,832
Pennsylvania	3,044,603	904,497
Rhode Island	350,001	200,000
South Carolina	1,001,411	308,292

FY 1992 ALLOTMENT—ADMINISTRATION ON DEVELOPMENTAL DISABILITIES—Continued

	Basic support	Protection & advocacy
South Dakota	350,001	200,000
Tennessee	1,380,879	9,596
Texas	4,104,216	1,179,073
Utah	497,860	200,000
Vermont	350,001	200,000
Virginia	1,297,536	398,161
Washington	1,021,138	298,295
West Virginia	740,065	222,408
Wisconsin	1,228,946	375,095
Wyoming	350,001	200,000
American Samoa	200,001	107,000
Guam	200,001	107,000
Puerto Rico	2,277,501	680,484
Trust Territories	287,562	107,000
Virgin Islands	200,001	107,000
Northern Mariana Islands	200,001	107,000

Dated: March 27, 1991.

Deborah L. McFadden,

Commissioner, Administration on Developmental Disabilities.

Approved: March 29, 1991.

Mary Sheila Gall,

Assistant Secretary for Human Development Services.

[FR Doc. 91-7616 Filed 4-1-91; 8:45 am]

BILLING CODE 4130-01-M

Public Health Services

Announcement of Availability of Funds for Family Planning Service Grants

AGENCY: Public Health Service, HHS.

ACTION: Notice.

SUMMARY: For Fiscal Year (FY) 1992, approximately $130 million will be provided to fund family planning services grants under title X of the Public Health Service Act (42 U.S.C. 300 *et seq.*). The Office of Population Affairs is announcing the availability of approximately 34 percent of this amount for competitive grants. The remaining funds will be used for funding existing grants.

OMB Catalog of Federal Domestic Assistance: 13.217.

DATES: Application due dates vary. See Supplementary Information below.

ADDRESSES: Additional information may be obtained from and completed applications should be sent to the appropriate Regional Health Administrator at the address below:

Region I

(Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, Vermont): DHHS/PHS Region I, John F. Kennedy Federal Building, Government Center, room 1400, Boston, MA 02203.

Region II

(New Jersey, New York, Puerto Rico, Virgin Islands): DHHS/PHS Region II, 26 Federal Plaza, room 3337, New York, NY 10278.

Region III

(Delaware, District of Columbia, Maryland, Pennsylvania, Virginia, W. Virginia): DHHS/PHS Region III, 3535 Market Street, Philadelphia, PA 19101.

Region IV

(Alabama, Florida, Georgia, Kentucky, Mississippi, N. Carolina, S. Carolina, Tennesse): DHHS/PHS Region IV, 101 Marietta Tower, suite 1106, Atlanta, GA 30323.

Region V

(Illinois, Indiana, Michigan, Minnesota, Ohio, Wisconsin): DHHS/PHS Region V, 101 West Adams Street, 17th floor, Chicago, IL 60603.

Region IV

(Arkansas, Louisiana, New Mexico, Oklahoma, Texas): DHHS/PHS Region VI, 1200 Main Tower Building, room 1800, 1200 Main Tower Building, room 1800, Dallas, TX 75202.

Region VII

(Iowa, Kansas, Missouri, Nebraska): DHHS/PHS Region VII, 601 East 12th Street, 5th fl. W., Kansas City, MO 64106.

Region VIII

(Colorado, Montana, N. Dakota, S. Dakota, Utah, Wyoming): DHHS/PHS Region VIII, 1961 Stout Street, Denver, CO 80294.

Region IX

(Arizona, California, Hawaii, Nevada, Commonwealth of the Northern Mariana Islands, American Samoa, Guam, Republic of Palau, Federated States of Micronesia, Republic of the Marshall Islands): DHHS/PHS Region IX, 50 United Nations Plaza, room 327, San Francisco, CA 94102.

Region X

(Alaska, Idaho, Oregon, Washington): DHHS/PHS Region X, Blanchard Plaza, 2201 Sixth Avenue, M/S RX-20, Seattle, WA 98121.

FOR FURTHER INFORMATION CONTACT: Grants Management Officers: Region I, Mary O'Brien—617/565-1482; Region II: Steven Wong—212/264-4496; Region III: Richard Dovalovsky—215/596-6653; Region IV: Wayne Cutchins—404/331-2597; Region V: Lawrence Poole—312/353-8700; Region VI: Frank Cantu—214/767-3879; Region VII: Hollis Hensley—816/426-2924; Region VIII: Jerry F. Wheeler—303/844-6163; Region IX: Linda Gash—415/556-5810; Region X: James Lockwood (Acting)—206/442-7997.

Program Officers: Region I, James Sliker—617/565-1452; Region II, Eileen Connolly—212/264-2571; Region III, Elizabeth Reed—215/596-6686; Region IV, Patricia Riley—404/331-5289; Region V, George Hockenberry—312/353-1700; Region VI, Paul Smith—214/767-3072; Region VII, Susan Moskosky—816/426-2924; Region VIII, John J. McCarthy, Jr.—303/844-5955; Region IX, James Hauser—415/556-7117; Region X, Vivian Lee—206/442-1020.

SUPPLEMENTARY INFORMATION: Title X of the Public Health Service Act, 42 U.S.C. 300 *et seq.*, authorizes the Secretary of Health and Human Services to award grants to public or private nonprofit entities to assist in the establishment and operation of voluntary family planning projects to provide a broad range of acceptable and effective family planning methods and services (including natural effective family planning methods and services (including natural family planning methods, infertility services, and services for adolescents). The statute requires that, to the extent practicable, entities shall encourage family participation. Also, Title X funds may not be used in programs where abortion is a method of family planning. Implementing regulations appear at 42 CFR Part 59 subpart A.

At 53 FR 2922 (February 2, 1988), the Department of Health and Human Services promulgated rules revising the requirements for compliance by grantees and applicants for grants with the statutory provision relating to abortion. Suits were filed in four jurisdictions challenging the revised rules, and the February 1988 rules have been enjoined in whole or in part by three of the jurisdictions. Consequently, portions of the revised rules are effective at present for certain organizations and not with respect to others. Users or organizations with questions as to whether the rules issued on February 2, 1988, apply to them should contact the appropriate program officer at the telephone number listed above.

Approximately $130 million nationwide is available in funding for Title X services grants, which are normally awarded for three-year project periods. Approximately $85 million of these funds will be used to fund existing continuation grants throughout the nation. The entire $130 million is

allocated among the 10 departmental regions, and will in turn be awarded to public and private non-profit agencies located within the regions. Each regional office is responsible for evaluating applications, establishing priorities, and setting funding levels according to criteria in 42 CFR 59.11.

This notice announces the availability of approximately $46,000,000 to provide services in 20 States. Applications are invited for the following areas:

Area(s) to be served	No. of grants to be awarded	Approx. funding level	Application due date	Grant funding date
Region II:				
Virgin Islands	1	$197,000	6/1/91	10/1/91
Region IV:				
Alabama	1	2,954,000	3/1/92	7/1/92
Florida	1	4,745,000	3/1/92	7/1/92
Georgia	1	4,163,000	3/1/92	7/1/92
Kentucky	1	2,963,000	3/1/92	7/1/92
Mississippi	1	2,875,000	3/1/92	7/1/92
North Carolina	1	3,963,000	3/1/92	7/1/92
South Carolina	1	3,030,000	3/1/92	7/1/92
Tennessee	1	3,778,000	3/1/92	7/1/92
Region V:				
Indiana	1	2,883,000	10/1/91	7/1/92
Michigan, excluding portions of Wayne County	1	3,264,000	12/1/91	4/1/92
Minnesota, excluding St. Paul	1	1,442,000	9/1/91	1/1/91
Central Ohio: Franklin, Delaware, Madison, Marion, Pickaway and Union Counties, Wisconsin	1	436,000	11/1/91	3/1/92
Wisconsin	1	2,078,000	11/1/91	3/1/92
Region VI:				
Oklahoma	1	1,986,000	8/1/91	12/1/91
Arkansas	1	1,958,000	1/1/91	3/1/91
New Mexico	1	1,185,000	9/1/91	1/1/92
Region VIII:				
North Dakota	1	409,000	3/1/92	7/1/92
Region IX:				
Arizona Navajo Reservation	1	434,000	3/1/92	7/1/92
Hawaii	1	746,000	3/1/92	7/1/92
Region X:				
Alaska, excluding Anchorage	1	76,000	3/1/92	7/1/92
Total	21	45,565,000		

Applications must be postmarked or, if not mailed, received at the appropriate Grants Management Office no later than close of business on application due dates listed above and received in time for orderly processing. Private metered postmarks will not be acceptable as proof of timely mailing. Applications which are postmarked or, if not sent by U.S. mail, delivered to the appropriate Grants Management Office later than the application due date will be judged late and will not be accepted for review. (Applicants should request a legibly dated U.S. Postal Service postmark from the U.S. Postal Service.) Applications which do not conform to the requirements of this program announcement or do not meet the assurances for project requirements in regulation 42 CFR part 59, subpart A will not be accepted for review. Applicants will be so notified, and the applications will be returned.

Applicants will be evaluated on the following criteria:

(1) The number of patients and, in particular, the number of low-income patients to be served;

(2) The extent to which family planning services are needed locally;

(3) The relative need of the applicant;

(4) The capacity of the applicant to make rapid and effective use of the Federal assistance;

(5) The adequacy of the applicant's facilities and staff;

(6) The relative availability of non-Federal resources within the community to be served, and the degree to which those resources are committed to the project; and

(7) The degree to which the project plan adequately provides for the requirements set forth in the Title X regulations.

The Public Health Service (PHS) is committed to achieving the health promotion and disease prevention objectives of Healthy People 2000, a PHS-led national activity for setting priority areas. This announcement is related to the priority areas of Family Planning. Potential applicants may obtain a copy of Healthy People 2000 (Full Report; Stock No. 017-001-00474-0) or Healthy People 2000 (Summary Report; Stock No. 017-001-00473-1) through the Superintendent of Documents, Government Printing Office, Washington, DC 20402-9325 (Telephone (202) 783-3238.

APPLICATION REQUIREMENTS: Application kits, including the application form, PHS 5161, and technical assistance for preparing proposals are available from the respective regional office. An application must contain: (1) A narrative description of the project and the manner in which the applicant intends to conduct it in order to carry out the requirements of the law and regulations; (2) a budget that includes an estimate of project income and costs, with justification for the amount of grant funds requested; (3) a description of the standards and qualifications that will be required for all personnel and facilities to be used by the project; and (4) such other pertinent information as may be required by the Secretary and specified in the application kit. In preparing an application, applicants should respond to all applicable regulatory requirements. (The information collections contained in this notice have been approved by the Office of Management and Budget and assigned control number 0937-0189.)

APPLICATION REVIEW AND EVALUATION: Each regional office is responsible for establishing its own review process. Applications must be submitted to the appropriate regional office at the address listed above. Staff are available

to answer questions and provide limited technical assistance in the preparation of grant applications.

GRANT AWARDS: Grant projects are generally funded for three years, with an annual non-competitive review of a continuation application to continue support. Non-competing continuation awards are subject to factors such as the project making satisfactory progress and the availability of funds. In all cases, continuation awards require a determination by HHS that continued funding is in the best interest of the Federal Government.

REVIEW UNDER EXECUTIVE ORDER 12372: E.O. 12372 sets up a system for State and local government review of proposed Federal assistance applications. Applicants (other than federally-recognized Indian tribal governments) should contact their State Single Pont of Contact (SPOCs) as early as possible to alert them to the prospective applications and receive any necessary instructions on the State process. For proposed projects serving more than one State, the applicant is advised to contact the SPOC of each affected State. A current list is included in the application kit. For those States not represented on the listing, further inquiries should be made by the applicant regarding the submission to the appropriate regional Grants Management Office. State Single Point of Contact comments must be received by the regional office 30 days prior to the funding date to be considered.

When final funding decisions have been made, each applicant will be notified by letter of the outcome of its application. The official document notifying an applicant that a project application has been approved for funding is the Notice of Grant Award, which specifies to the grantee the amount of money awarded, the purposes of the grant, and terms and conditions of the grant award.

Dated: March 26, 1991.

William R. Archer III,

Deputy Assistant Secretary for Population Affairs.

[FR Doc. 91-7638 Filed 4-1-91; 8:45 am]

BILLING CODE 4160-17-M

DEPARTMENT OF THE INTERIOR

Office of the Secretary

White House Conference on Indian Education Advisory Committee

AGENCY: Notice of meeting.

SUMMARY: This notices sets forth the proposed schedule of the forthcoming meeting of the White House Conference on Indian Education Advisory Committee. Notice of this meeting is required under section 10(a)(2) of the Federal Advisory Committee Act. The White House Conference on Indian Education Advisory Committee is established by Public Law 100-297, Part E. The Committee is established to assist and advise the Task Force in planning and conducting the conference.

DATES, TIME AND PLACE: April 17, 1991, at 10:30 a.m. to 5:00 p.m. and April 18, 1991, at 9 a.m. to 5:00 p.m. at the U.S. Department of the Interior, 1849 C Street NW., room 5160, Washington, DC 20240, Telephone: 202-208-7167.

FOR FURTHER INFORMATION CONTACT: Dr. Benjamin Atencio, Deputy Director, White House Conference on Indian Education, U.S. Department of Interior, 1849 C Street NW., MS 7026-MIB, Washington, DC 20240; telephone 202-208-7167; fax 202-208-4868.

Agenda: The Advisory Committee for the White House Conference on Indian Education will discuss and advise the Task Force on all aspects of the Conference and actions which are necessary for the conduct of the Conference. Summary minutes of the meeting will be made available upon request. The meeting of the Advisory Committee will be open to the public.

Dated: March 29, 1991.

Brian P. Malnak,

Deputy Director for Intergovernmental Affairs.

[FR Doc. 91-7834 Filed 4-1-91; 8:45 am]

BILLING CODE 4310-RK-M

Bureau of Land Management

[ES 970-01-4120-14-241A; KYES 42948/ KYES 43034]

Competitive Coal Lease Offering by Sealed Bid; Pike and Henderson Counties, Kentucky

AGENCY: Bureau of Land Management, Interior.

ACTION: Competitive coal lease offerings by sealed bid.

SUMMARY: Notice is hereby given that as a result of applications filed by the Summit Engineering Company (KYES 42948) in Pike County, Kentucky and Peabody Coal Company (KYES 43034) in Henderson County, Kentucky, coal resources will be offered for competitive leasing by sealed bid in accordance with the provisions of the Mineral Leasing Act of 1947 (61 Stat. 913, 30 U.S.C. 351-359), as amended. The applicants have satisfactorily demonstrated under the emergency leasing regulation, 43 CFR 3425.1-4, that if the coal deposits are not leased, they will be bypassed in the reasonably foreseeable future. The applications are described as follows:

Pike County, Kentucky
The Fishtrap Lake, Grapevine Tract (KYES 42948)
Tract Nos. 723, 725 and 732
Containing approximately 99 acres.

And

Henderson County, Kentucky
The Camp Tract (KYES 43034)
Tract No. 7A more particularly described as: Lying west of Whitelick Road and between John Tapp Road and Highland Creek and being the south east portion of Tract 7-A. Beginning at an iron pin (set) in the centerline of John Tapp road, the original point called "X" on Camp Breckinridge Surface Tract No. 9 and Mineral Tract No. 7-A, with map coordinates of N 487, 474.570—E 1,427,801.620; thence leaving John Tapp Road with the mineral division line of Tract No. 7-A and Tract No. 8 south 2,414.53 feet to an iron pin (set), the original mineral corner called "O"; thence continuing with Tracts No. 7-A and No. 8 west (passing an iron pin set on the east bank of Highland Creek at 3,907.44 feet) 3,962.44 feet to a point in Highland Creek in the Union and Henderson County Line; thence leaving Highland Creek N 44 degrees 25' 24" E (passing an iron pin set on the east bank of Highland Creek at 55.00 feet) 4,337.94 feet to an iron pin (set) in the centerline of John Tapp Road; thence with the centerline of John Tapp Road and the northern boundary of Mineral Tract No. 7-A S 53 degrees 34' 04" E 1,151.05 feet to the point of beginning.
Containing approximately 167 acres.

These tracts will be leased to the qualified bidders of the highest cash amount provided that the high bid for the tract equals or exceeds the fair market value (FMV) of the tract as determined by the officer after the sale The Department has established a minimum bid of $100 per acre for the tract. The minimum bid is not to be considered as representing the amount for which the tract may actually be leased, since FMV will be determined in a separate postsale analysis. If identical high sealed bids are received, the tying high bidders will be asked to submit follow up sealed bids until a high bid is received. All tie breaking bids must be submitted within 15 minutes following the authorized officers' announcement at the sale that identical high bids have been received.

DATES: The sale will be held at 10 a.m., Friday, May 3, 1991 in the Eastern States Office Public Room. All bids must be submitted to the Bureau of Land Management, Eastern States Office, 350 South Pickett Street, Alexandria, Virginia 22304. Each bid must be clearly identified by the tract name or the serial

number on the outside of the sealed envelope containing the bid. The bids should be sent by certified mail, return receipt or be hand delivered on or before 5 p.m., Thursday, May 2, 1991. Any bids received after 5 p.m. May 2, 1991 will not be considered.

SUPPLEMENTARY INFORMATION: The coal resources being offered are to be mined underground. The range quality of the coal within the proposed leases is as follows:

KYES 42948

[Lower Elkhorn Bed and Rider]

Proximate analysis (%)	Dry basis
Volatile	34.51
Ash	38.90
BTU/lb.	13,951
Sulfur	1.33

This seam contains an estimated 167,400 short ons of recoverable coal resources.

KYES 43034

[Kentucky No. 9 (Springfield) Coal Seam]

Proximate analysis (%)	Dry basis
Volatile	37.1
Ash	12.25
BTU/lb.	12,392
Sulfur	4.83
Fixed Carbon	50.4

This seam contains an estimated 940,000 short tons of recoverable coal resources.

RENTAL AND ROYALTY: Any lease issued as a result of these offerings will provide for payment of an annual rental of $3 per acre and a royalty payable to the United States of 8% of the value of coal mined by underground methods shall be determined in accordance with 43 CFR 3485.2.

NOTICE OF AVAILABILITY: Bidding instructions and bidder qualifications are included in the Detailed Statement and Lease Sale. Copies of the Statement and of the proposed coal leases are available at the Bureau of Land Management, Eastern States Office and the Jackson District Office. Case file documents are available for public inspection at the Eastern States Office.

FOR FURTHER INFORMATION CONTACT: Ms. Pearl F. Tillman at (703) 461–1468 or Mr. Ian J. Senio at (703) 461–1445 of the Bureau of Land Management, Eastern States Office, 350 South Pickett Street, Alexandria, Virginia 22304.

Walter Rewinski,

Acting State Director.

[FR Doc. 7593 Filed 4–1–91; 8:45 am]

BILLING CODE 4310–CJ–M

[UT–933–01–4212–13; UTU–65023]

Availability of the Proposed Planning Amendment for the Price River Resource Area Management Framework Plan

AGENCY: Bureau of Land Management, Interior.

ACTION: Correction notice.

SUMMARY: In Notice Document 91–5831 which was published March 13, 1991, (56 FR 10571) beginning on page 10571, in the first column under "Summary," the fourth line after the word follows, and before Salt Lake Meridian, Utah T. 13 S., R. 11 E., include the following statement: The following described parcel of public land will be managed for disposal only through exchange under Section 206 of the Federal Land Policy and Management Act of 1976.

Dated: March 27, 1991.

Joseph L. Jewkes,

Acting State Director.

[FR Doc. 91–7652 Filed 4–1–91; 8:45 am]

BILLING CODE 4310–DQ–M

[AZ–010–91–4410–08; 1784–010]

Resource Management Plans; Arizona Strip District

AGENCY: Bureau of Land Management, Arizona Strip District, Interior.

ACTION: Clarification of protest period for the Arizona Strip Resource Management Plan.

SUMMARY: 43 CFR 1610.5–2(a)(1) states that a protest period for a resource management plan (RMP) will extend for a period of 30 days from the date of publication, in the **Federal Register**, of the notice of availability by the Environmental Protection Agency. By regulation, the protest period closed on March 22, 1991. Copies of the proposed RMP and final environmental impact statement distributed to interested parties inadvertently specified a different deadline. In the interest of equal treatment of all interested parties, and since the terms of the cited regulations may not be altered by a date in a published RMP, protests may be filed for a period of 15 days from the date of publication of this notice. Any protest filed with the Bureau of Land Management Director and postmarked on or before 15 days from the date of publication of this notice will be considered timely filed.

FOR FURTHER INFORMATION CONTACT: Dennis Curtis, Planning Team Leader, 390 North 3050 East, St. George, Utah 84770, tel. (801) 673–3545.

Dated: March 26, 1991.

Raymond D. Mapston,

Acting District Manager.

[FR Doc. 91–7670 Filed 4–1–91; 8:45 am]

BILLING CODE 4310–32–M

Geological Survey

Information Collection Submitted to the Office of Management and Budget for Review

The proposal for the collection of information listed below has been submitted to the Office of Management and Budget for extension of the expiration date under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35). Copies of the collection of information and related forms and explanatory material may be obtained by contacting the Bureau's clearance officer and to the Office of Management and Budget, Paperwork Reduction Project (1028–0044), Washington, DC 20503.

Title: State Water Research Institute Program, 30 CFR Part 401.

OMB approval number: 1028–0044.

Abstract: Respondents supply information on eligibility for Federal grants to support water-related research and provide performance reports on accomplishments achieved through use of such funds. This information allows the agency to determine compliance with the objectives and criteria of the grant program.

Bureau form number: None.

Frequency: Semi-Annually.

Description of respondents: State water research institutes.

Annual responses: 108.

Annual burden hours: 9072.

Bureau clearance officer: Geraldine A. Wilson 703–648–7309.

Dated: January 29, 1991.

Charles W. Boning,

Acting Chief Hydrologist.

[FR Doc. 91–7671 Filed 4–1–91; 8:45 am]

BILLING CODE 4310–31–M

Minerals Management Service

Information Collection Submitted to the Office of Management and Budget for Review

The proposal for the collection of information listed below has been submitted to the Office of Management and Budget (OMB) for approval under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35). Copies of the proposed collection of information and related forms may be obtained by contacting the Bureau's Clearance Officer at the telephone number listed below. Comments and suggestions on the proposal should be made directly to the Bureau Clearance Officer and to the Office of Management and Budget; Paperwork Reduction Project (1010–0017); Washington, DC 20503, telephone (202) 395–7340, with copies to John V. Mirabella; Acting Chief, Engineering and Standards Branch; Engineering and Technology Division; Mail Stop 4700; Minerals Management Service; 381 Elden Street; Herndon, Virginia 22070–4817.

Title: Semiannual Gas Well Test Report, Form MMS–1870

OMB approval number: 1010–0017

Abstract: Respondents submit Form MMS–1870 to the Minerals Management Service's (MMS) Regional Supervisors so they can evaluate the results of well tests to ascertain if reservoirs are being depleted in a manner that will lead to the greatest ultimate recovery of hydrocarbons. The form is designed to present current well data on a semiannual basis to permit the updating of permissible producing rates and provide the basis for estimates of currently remaining recoverable gas reserves.

Bureau form number: Form MMS–1870.

Frequency: Semiannually.

Description of respondents: Federal oil and gas lessees performing offshore production operations.

Estimated completion time: 2 hours

Annual responses: 6,000.

Annual burden hours: 12,000.

Bureau Clearance Officer: Dorothy Christopher, (703) 787–1239.

Dated: March 8, 1991.

Thomas Gernhofer,

Associate Director for Offshore Minerals Management.

[FR Doc. 91–7661 Filed 4–1–91; 8:45 am]

BILLING CODE 4310–MR–M

Information Collection Submitted to the Office of Management and Budget for Review Under the Paperwork Reduction Act

The proposal for the collection of information listed below has been submitted to the Office of Management and Budget (OMB) for approval under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35). Copies of the proposed collection of information and related forms may be obtained by contacting the Bureau's Clearance Officer at the telephone number listed below. Comments and suggestions on the proposal should be made directly to the Bureau Clearance Officer and to the Office of Management and Budget; Paperwork Reduction Project (1010-0018); Washington, DC 20503, telephone (202) 395-7340, with copies to John V. Mirabella; Acting Chief, Engineering and Standards Branch; Engineering and Technology Division; Mail Stop 4700; Minerals Management Service; 381 Elden Street; Herndon, Virginia 22070–4817.

Title: Request for Reservoir MER, Form MMS–1866.

OMB approval number: 1010–0018.

Abstract: Respondents submit Form MMS–1866 to the Minerals Management Service's (MMS) Regional Supervisors so MMS can determine whether a lessee has correctly classified an oil and gas reservoir and whether the reservoir maximum efficient rate (MER) requested by the lessee is valid.

Bureau form number: Form MMS–1866.

Frequency: On occasion.

Description of respondents: Federal oil and gas lessees performing offshore production operations.

Estimated completion time: 1 hour.

Annual responses: 600.

Annual burden hours: 600.

Bureau Clearance Officer: Dorothy Christopher, (703) 787–1239.

Dated: March 8, 1991.

Thomas Gernhofer,

Associate Director for Offshore Minerals Management.

[FR Doc. 91–7662 Filed 4–1–91; 8:45 am]

BILLING CODE 4310–MR–M

Information Collection Submitted to the Office of Management and Budget for Review Under the Paperwork Reduction Act

The proposal for the collection of information listed below has been submitted to the Office of Management and Budget (OMB) for approval under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35). Copies of the proposed collection of information and related forms may be obtained by contacting the Bureau's Clearance Officer at the telephone number listed below. Comments and suggestions on the proposal should be made directly to the Bureau Clearance Officer and to the Office of Management and Budget; Paperwork Reduction Project (1010–0019); Washington, DC 20503, telephone (202) 395–7340, with copies to John V. Mirabella, Acting Chief, Engineering and Standards Branch; Engineering and Technology Division; Mail Stop 4700; Minerals Management Service; 381 Elden Street; Herndon, Virginia 22070–4817.

Title: Request for Well Maximum Production Rate (MPR), Form MMS–1867.

OMB approval number: 1010–0019.

Abstract: Respondents submit Form MMS–1867 to the Minerals Management Service's (MMS) Regional Supervisors so MMS can determine the well and reservoir involved in a request for a maximum production rate to establish the maximum daily rate at which oil and gas may be produced from a specific well completion.

Bureau form number: Form MMS–1867.

Frequency: On occasion.

Description of Respondents: Federal oil and gas lessees performing offshore production operations.

Estimated completion time: .25 hour.

Annual responses: 4,000.

Annual burden hours: 1,000.

Bureau Clearance Officer: Dorothy Christopher, (703) 787–1239.

Dated: March 8, 1991.

Thomas Gernhofer,

Associate Director for Offshore Minerals Management.

[FR Doc. 91–7663 Filed 4–1–91; 8:45 am]

BILLING CODE 4310–MR–M

Information Collection Submitted to the Office of Management and Budget for Review Under the Paperwork Reduction Act

The proposal for the collection of information listed below has been submitted to the Office of Management and Budget (OMB) for approval under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35). Copies of the proposed collection of information and related forms may be obtained by contacting the Bureau's Clearance Officer at the telephone number listed below. Comments and suggestions on the requirement should be made directly to the Bureau Clearance Officer and to the Office of

Management and Budget; Paperwork Reduction Project (1010–0039), Washington, DC 20503, telephone (202) 395–7340, with copies to John V. Mirabella; Acting Chief, Engineering and Standards Branch; Engineering and Technology Division; Mail Stop 4700; Minerals Management Service; 381 Elden Street; Herndon, Virginia 22070–4817.

Title: Well Potential Test Report, Form MMS–1868.

OMB approval number: 1010–0039.

Abstract: Respondents submit Form MMS–1868 to the Minerals Management Service's (MMS) Regional Supervisors so MMS can determine the maximum production rate for an oil or gas well.

Bureau form number: Form MMS–1868.

Frequency: On occasion.

Description of respondents: Federal oil and gas lessees performing offshore production operations.

Estimated completion time: 2 hours.

Annual responses: 4,000

Annual burden hours: 8,000.

Bureau Clearance Officer: Dorothy Christopher, (703) 787–1239.

Dated: March 8, 1991.

Thomas Gernhofer,

Associate Director for Offshore Minerals Management.

[FR Doc. 91–7664 Filed 4–1–91; 8:45 am]

BILLING CODE 4310–MR–M

National Park Service

National Register of Historic Places; Pending Nominations

Nominations for the following properties being considered for listing in the National Register were received by the National Park Service before March 23, 1991. Pursuant to § 60.13 of 36 CFR part 60 written comments concerning the significance of these properties under the National Register criteria for evaluation may be forwarded to the National Register, National Park Service, P.O. Box 37127, Washington, DC 20013–7127. Written comments should be submitted by April 17, 1991.

Beth Savage,

Acting Chief of Registration, National Register.

CONNECTICUT

Tolland County

South Coventry Historic District, Roughly, Main St. and adjacent streets from Armstrong Rd. to Lake St. and Lake from High St. to Main, Coventry, 91000482

DISTRICT OF COLUMBIA

District of Columbia (State equivalent)

Senator Theater, 3950 Minnesota Ave., NE., Washington, 91000462

GEORGIA

Richmond County

Darling, Joseph, House, 3066 Dennis Rd, Martinez vicinity, 91000479

IDAHO

Bear Lake County

Ream, William and Nora, House, Dingle Rd. S. of Ream Crockett Canal, Dingle vicinity, 91000460

Jerome County

Hazelton Presbyterian Church, 310 Park Ave., Hazelton, 91000459

Washington County

Watlington, Benjamin, House, 206 W. Court St., Weiser, 91000458

KANSAS

Douglas County

Morse, Dr. Frederic D., House, 1041 Tennessee St., Lawrence, 91000469

Harper County

Anthony Theater 220 W. Marion St., Anthony, 91000464

Sedgwick County

St. Mark Church, 19230 W. 29th St., N., Colwich vicinity, 91000463

MASSACHUSETTS

Hampden County

Monson Center Historic District, Jct. of Main and Cushman Sts., Monson, 91000481

MICHIGAN

Leelanau County

Hutzler, George Conrad, Farm, S. Manitou Island, Sleeping Bear Dunes National Seashore, Glen Haven vicinity, 91000466

NEW JERSEY

Morris County

Fosterfields, Jct. of Mendham and Kahdena Rds., Morris Township, Morristown, 91000478

NEW YORK

Nassau County

Rescue Hook & Ladder Company No. 1 Firehouse (Roslyn Village MRA), Jct. of School St. and Skillman St., Roslyn, 91000480

NORTH CAROLINA

Onslow County

Avirett—Stephens Plantation (Onslow County MPS), US 258/24 .25 mi. N. of NC 1227, Richlands vicinity, 91000465

PENNSYLVANIA

Delaware County

South Wayne Historic District, Roughly bounded by Lancaster Ave., Conestoga Rd. and Iven Ave., Radnor Township, Wayne. 91000477

RHODE ISLAND

Providence County

Main Street Historic District (Woonsocket MRA), Roughly, Main St. E. of Market Sq. to Depot Sq., Woonsocket, 91000461

SOUTH CAROLINA

Darlington County

Cannon, W. E., House and Store (Hartsville MPS), 612 W. Home Ave., Hartsville, 91000470

Coker, James L., III, House (Hartsville MPS), 620 W. Home Ave., Hartsville, 91000471

Dunlap, C. K., House (Hartsville MPS), 1346 W. Carolina Ave., Hartsville, 91000472

East Home Avenue Historic District (Hartsville MPS), Roughly, E. Home Ave. from N. Fifth St. to just E. of First Ave., Hartsville, 91000475

Gilbert, J. B., House (Hartsville MPS), 200 Fairfield Terr., Hartsville, 91000473

Hart, Thomas E., House, and Kalmia Gardens (Hartsville MPS), 624 W. Carolina Ave., Hartsville, 91000474

Lawton Park and Pavilion (Hartsville MPS), Prestwood Dr. at jct. with Lanier Dr., Hartsville, 91000476

WISCONSIN

Iowa County

McCoy Rock Art Site (Wisconsin Indian Rock Art Sites MPS), Address Restricted, Moscow, 91000467

Sauk County

Derleth, August W., House, S10431a Lueders Rd., Sauk City vicinity, 91000468

[FR Doc. 91–7615 Filed 4–1–91; 8:45 am]

BILLING CODE 4310–70–M

INTERNATIONAL DEVELOPMENT COOPERATION AGENCY

Agency for International Development

Housing Guaranty Program; Notice of Investment Opportunity

The Agency for International Development (A.I.D.) has authorized the guaranty of loans for the Republic of Indonesia ("Borrower") as part of A.I.D.'s development assistance program. The proceeds of these loans will be used to finance infrastructure and shelter projects for low-income families in Indonesia. At this time, the Government of Indonesia has authorized A.I.D. to request proposals from eligible lenders for a loan under this program of $25 Million ($25,000,000). The name and address of the representatives of the Borrower to be contacted by interested U.S. lenders or investment bankers, the amount of the loan and project number are indicated below:

Government of Indonesia

Project: 497–HG–001—$25,000,000, Loan Guaranty Authorization No.: 497–HG–003

1. Attention: Mr. Benjamin Parwoto, Director General of Budget, Ministry of Finance, Jalan Lapangan Banteng Timur No. 2, Jakarta, Indonesia; Telex No.: 46415 DJMLNIA or 44319 DEPKEU, Telefax No.: 62–21–372758, Telephone No.: 62–21–358289, 372758 or 3842234 or 3848294
   and
2. Attention: Mr. Syahril Sabirin, Bank of Indonesia, Jalan M.H. Thamrin No. 2, Jakarta, Indonesia; Telex No.: 44200 BISIR IA or 46611 BISIR IA, Telefax No.: 62–21–362896, Telephone No.: 62–21–362938
   and
3. Attention: Mr. Ahmad Darsana, Bank of Indonesia, One World Financial Center, 200 Liberty Street, 6th Floor, New York, N.Y. 10281; Telefax No.: 212/945–1316, Telephone No.: 212/945–1310 or 1315

Interested lenders should contact the Borrower as soon as possible and indicate their interest in providing financing for the Housing Guaranty Program. Interested lenders should deliver their bids to all of the Borrower's representatives by Tuesday, April 23, 1991, 12:00 noon Eastern Standard Time. Bids should be open for a period of 48 hours from the bid closing date. Copies of all bids should be simultaneously sent to the following:

Mr. Earl Kessler, Assistant Director/Asia, RHUDO/Bangkok, USAID/Thailand, Box 47 APO, San Francisco, CA 96346 (Street address: 37 Soi Somprasong 3, Petchburi Road, Bangkok, Thailand); Telex No.: 87059 RPS TH, Telefax No.: 662–255–3730 (preferred communication), Telephone No.: 662–255–3665

Mr. William Frej, USAID/Indonesia, Box 4 APO, San Francisco, CA 96356, (Street address: Jl. Medan Merdeka Selatan No. 5, Jakarta, Indonesia); Telex No.: 44218 AMEMB, IA, Telefax No.: 62–21–380–6694 (preferred communication), Telephone No.: 62–21–360360

Sean P. Walsh, Agency for International Development, APRE/H, Room 401, SA–2, Washington, D.C. 20523–0214; Telex No.: 892703 AID WSA, Telefax No.: 202/663–2552 (preferred communication), Telephone No.: 202/663–2530

For your information the Borrower is currently considering the following terms:

(1) *Amount*: U.S. $25 million.

(2) *Term*: Up to 30 years.

(3) *Grace Period*: Ten years with repayment amortizing evenly over the remaining life of the loan.

(4) *Interest Rate:* Alternatives of fixed and variable rates. Index variable alternatives to U.S. 6-month T-bill rates.

(5) *Prepayment:* Offers should include options for prepayment.

(6) *Fees:* Offers should specify the placement fees and expenses. Lenders are requested to include all legal fees in their placement fee. Such fees and expenses shall be payable at closing from the proceeds of the loan.

(7) *Closing Date:* Estimated 60 days from date of selection of investor.

Selection of investment bankers and/or lenders and the terms of the loan are initially subject to the individual discretion of the Borrower and thereafter subject to approval by A.I.D. Disbursements under the loan will be subject to certain conditions required of the Borrower by A.I.D. as set forth in agreements between A.I.D. and the Borrower.

The full repayment of the loans will be guaranteed by A.I.D. The A.I.D. guaranty will be backed by the full faith and credit of the United States of America and will be issued pursuant to authority in Section 222 of the Foreign Assistance Act of 1961, as amended (the "Act").

Lenders eligible to receive an A.I.D. guaranty are those specified in Section 238(c) of the Act. They are: (a) U.S. citizens; (2) domestic U.S. corporations, partnerships, or associations substantially beneficially owned by U.S. citizens; (3) foreign corporations whose share capital is at least 95 percent owned by U.S. citizens; and, (4) foreign partnerships or associations wholly owned by U.S. citizens.

To be eligible for an A.I.D. guaranty, the loans must be repayable in full no later than the thirtieth anniversary of the disbursement of the principal amount thereof.

Information as to the eligibility of investors and other aspects of the A.I.D. housing guaranty program can be obtained from:

Peter M. Kimm, Director, Office of Housing and Urban Programs, Agency for International Development, Room 401, SA–2, Washington, D.C. 20523–0214, Telephone: 202/663–2530

Dated: March 26, 1991.

Michael G. Kitay,

Assistant General Counsel, Bureau for Private Enterprise, Agency for International Development.

[FR Doc. 91–7796 Filed 4–1–91; 8:45 am]

BILLING CODE 6116–01–M

DEPARTMENT OF JUSTICE

Antitrust Division

International Pharmaceutical Aerosol Consortium for Toxicology Testing of HFA–227 ("IPACT II")

Notice is hereby given that, pursuant to section 6(a) of the National Cooperative Research Act of 1984, 15 U.S.C. 4301 *et seq.* ("Act"), the International Pharmaceutical Aerosol Consortium for Toxicology Testing of HFA–227 ("IPACT II"), on February 21, 1991, filed a written notification simultaneously with the Attorney General and the Federal Trade Commission disclosing (1) The identity of the parties to the joint venture and (2) the nature and objectives of the joint venture. The notification was filed for the purpose of invoking the protections of the Act limiting the recovery of antitrust plaintiffs to actual damages under specific circumstances. Pursuant to section 6(b) of the Act, the identities of the parties of IPACT II, and its general area of planned activity, are given below.

The parties to the joint venture are: Boehringer Ingelheim GmbH; Fisons plc, Pharmaceutical Division; Glaxo Group Limited; Hoechst AG; and Rhone-Poulenc Rorer S.A. Membership is open until December 11, 1991, to anyone with a commercial interest in metered dose aerosols.

The nature of the planned joint activity is to engage a laboratory or laboratories to conduct inhalation safety testing of, and otherwise gather safety data on, 1,1,1,2,3,3,3 heptafluoropropane ("HFA–227") in connection with seeking U.S. and foreign governmental approval of HFA–227 for use as a propellant in pocket size, metered dose inhalers also containing therapeutically active ingredients useful in treating asthma and other lung afflictions.

Joseph H. Widmar,

Director of Operations, Antitrust Division.

[FR Doc. 91–7658 Filed 4–1–91; 8:45 am]

BILLING CODE 4410–01–M

Drug Enforcement Administration

[Docket No. 90–49]

Richard J. Lanham, M.D. Revocation of Registration

On May 17, 1990, the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration (DEA), issued an Order to Show Cause to Richard J. Lanham, M.D. (Respondent) of 42 Forrer Road,

Oakwood, Ohio 45419, proposing to revoke his DEA Certificate of Registration, AL6866339, and to deny any pending applications for renewal of such registration. The statutory predicate for the proposed action was Respondent's lack of authorization to handle controlled substances in the State of Ohio.

Respondent, proceeding *pro se*, requested a hearing on the issue raised by the Order to Show Cause and the matter was docketed before Administrative Law Judge Mary Ellen Bittner. On July 18, 1990, the Government filed a motion for summary disposition on the ground that Respondent was no longer authorized to practice medicine in the State of Ohio, and, consequently, was no longer authorized to handle controlled substances in that state. With the motion, Government counsel attached a copy of the Order issued by the Ohio Medical Board revoking Respondent's medical license in that state. The administrative law judge then provided Respondent with an opportunity to respond to the motion for summary disposition. However, the only document filed by the Respondent was in the form of a Prehearing Statement, dated August 8, 1990. No documents were filed to address the issue of whether the Respondent was licensed to handle controlled substances in the State of Ohio.

On September 4, 1990, in her opinion and recommended decision, the administrative law judge recommended that Respondent's DEA Certificate of Registration be revoked and that any pending applications for renewal be denied, based upon his lack of state authorization to handle controlled substances. On October 11, 1990, the administrative law judge transmitted the record to the Administrator. After a careful review of the entire record in this matter, the Administrator adopts the administrative law judge's opinion and recommended decision.

The Administrator finds that on June 2, 1989, Respondent executed a Voluntary Surrender of his Certificate to Practice Medicine and Surgery in Ohio with a consent to revocation. Effective June 2, 1989, the Ohio Medical Board ordered Respondent's Medical Certificate No. 50584 be revoked. Therefore, Respondent is no longer authorized to handle controlled substances in the State of Ohio.

The Administrator and his predecessors have consistently held that DEA does not have the statutory authority under the Controlled Substances Act to issue or maintain a registration if the applicant or registrant is without state authority to handle controlled substances. See, Edward L. McIver, M.D., 53 FR 16477 (1988); Howard J. Reuben, M.D., 52 FR 8375 (1987); Ramon Pla, M.D., Docket No. 86–54, 51 FR 41168 (1986); Dale D. Shahan, D.D.S., Docket No. 85–57, 51 FR 23481 (1986); and cases cited therein. Due to the fact that nothing in the record contradicts the Government's evidence that Respondent's Ohio medical license has been revoked, the Administrator finds that Respondent is not currently authorized to handle controlled substances in the State of Ohio. Therefore, Respondent's registration AL6866339, issued to him at 42 Forrer Road, Oakwood, Ohio, must be revoked.

In cases such as this, where a Respondent is not authorized to handle controlled substances in the state in which he is registered, a motion for summary disposition is properly entertained and must be granted. It is well settled that when no question of fact exists, or when the material facts are agreed, a plenary adversary administrative proceeding is not required, even though the statute prescribes a hearing. In such situations, the rationale is that Congress did not intend for the Agency to perform the meaningless task of conducting a hearing when no issues remain in dispute. See, *United States* v. *Consolidated Mines and Smelting Company, Ltd.*, 445 F.2d 432, 453 (9th Cir. 1971); *N.L.R.B.* v. *International Association of Bridge, Structural and Ornamental Ironworkers, AFL–CIO*, 549 F.2d 634 (9th Cir.1977); Alfred Tennyson Smurthwaite, M.D., Docket No. 77–29 43 FR 11873 (1978).

Accordingly, the Administrator of the Drug Enforcement Administration, pursuant to the authority vested in him by 21 U.S.C. 823 and 824 and 28 CFR 0.100(b) hereby orders that DEA Certificate of Registration, AL6866339, previously issued to Richard J. Lanham, M.D., be, and it hereby is, revoked. It is further ordered that any pending applications for renewal of said registration be, and they hereby are, denied. This order is effective May 2, 1991.

Dated: March 22, 1991.

Robert C. Bonner,

Administration.

[FR Doc. 91–7614 Filed 4–1–91; 8:45 am]

BILLING CODE 4410–09–M

[Docket No. 90–23]

Ronald Reid, R.Ph. d.b.a. Reid's Pharmacy III Martin, KY; Hearing

Notice is hereby given that on March 6, 1990, the Drug Enforcement Administration, Department of Justice, issued to Ronald Reid, R.Ph., d.b.a. Reid's Pharmacy III, an Order to Show Cause as to why the Drug Enforcement Administration should not revoke your DEA Certificate of Registration, AR2091875, and deny and pending applications for a DEA Certificate of Registration.

Thirty days have elapsed since the said Order to Show Cause was received by Respondent, and written request for a hearing having been filed with the Drug Enforcement Administration, notice is hereby given that a hearing in this matter will be held on April 9–10, 1991, commencing at 10 a.m., at the Jefferson Circuit Court, New Hall of Justice Building, 600 W. Jefferson Street, Third Floor, Division 5, Louisville, Kentucky.

Dated: March 21, 1991.

Robert C. Bonner,

Administrator, Drug Enforcement Administration.

[FR Doc. 91–7613 Filed 4–1–91; 8:45 am]

BILLING CODE 4410–09–M

Federal Bureau of Investigation

Renewal; Uniform Crime Reporting Data Providers Advisory Policy Board

In accordance with the provisions of the Federal Advisory Committee Act (U.S.C. App. I (Supp. II, 1972)), and title 41, CFR section 101–6.10, the Director, FBI, with the concurrence of the Attorney General, has determined that the renewal of the Uniform Crime Reporting Data Providers Advisory Policy Board is in the public interest in connection with the performance of duties imposed upon the FBI by law, and hereby gives notice of its renewal.

The Board recommends to the Director, FBI, general policy with respect to the philosophy, concept, and operational principles of UCR, particularly the relationship with local and state criminal justice systems.

The Board will consist of 20 members from crime statistics providing agencies within the United States. Board members will be nominated by the International Association of Chiefs of Police (9), the National Sheriffs' Association (5), the National Academy Associates (2), and the Director of the FBI (4).

The Board functions solely as an advisory body in compliance with the provisions of the Federal Advisory Committee Act. Its charter will be filed in accordance with the provisions of the Act.

Dated: March 18, 1991.

William S. Sessions,

Director.

[FR Doc. 91-7660 Filed 4-1-91; 8:45 am]

BILLING CODE 4410-02-M

DEPARTMENT OF LABOR

Office of the Secretary

LIFT (Labor Investing for Tomorrow) Awards

AGENCY: Office of the Secretary, United States Department of Labor.

ACTION: Notice.

SUMMARY: The Office of the Secretary, United States Department of Labor (DOL), is announcing the Secretary of Labor's 1991 LIFT Awards Program. This program was first identified in a Paperwork Reduction Act notice in the **Federal Register** of February 28, 1990 (55 FR 7046). The Office of Management and Budget (OMB) has approved the requested information collection, for the LIFT Awards program, through March, 1993, and assigned OMB Control Number 1225-0051. The DOL recognized sixteen organizations under this program in 1990 and is proceeding with the program for the second year. This is an honorary program. There are no monetary awards.

DATES: April 2, 1991.

FOR FURTHER INFORMATION CONTACT: Gary B. Reed, DOL, Telephone (202) 523-6006. This is not a toll-free number.

SUPPLEMENTARY INFORMATION: The Department of Labor started the annual LIFT (Labor Investing for Tomorrow) Awards in 1990. This was done as one aspect of an overall initiative to enhance the quality of the American workforce. As a Nation, we face the challenge of being unprepared for the new jobs of the 1990's and beyond. Demographic changes and the changing nature of the workplace have resulted in a discrepancy between the skill level of new, young labor force entrants and the skills sought by employers. The American workplace has undergone significant changes in recent years, but there is much more to be done. To succeed in meeting this challenge requires the involvement and mobilization of a concerned citizenry. The 1991 LIFT Awards continue the purpose of encouraging significant, community level involvement in upgrading the quality of the workforce by honoring the discovery and application of creative solutions to the workforce crisis. Exemplary efforts on the part of employers, unions, employee groups, educational organizations, and communities will be recognized and promoted.

The LIFT Awards Program is fully described in a booklet containing the nomination guidelines, a copy of which follows as an appendix to this notice. Official copies of the booklet may be obtained from the U.S. Department of Labor, Office of the Assistant Secretary for Policy, room S-2114, Frances Perkins Building, 200 Constitution Avenue NW., Washington, DC 20210, telephone (202) 523-6026. Completed nominations must be submitted by May 31, 1991, to this same address.

Signed at Washington, DC, this 27th day of March 1991.

Debra R. Bowland,

Acting Assistant Secretary for Policy.

LIFT Awards

Nomination Guidelines 1991

U.S. Department of Labor, Office of the Secretary

Table of Contents

Introduction

The Department of Labor started the annual LIFT (Labor Investing for Tomorrow) Awards in 1990. LIFT is one aspect to an overall initiative to enhance the quality of the American workforce. As a Nation, we face the challenge of being unprepared for the new jobs of the 1990s and beyond. Demographic changes and the changing nature of the workplace have resulted in a skills gap. There is a discrepancy between the skill level of new, young labor force entrants and the skills sought by employers. The American workplace has undergone significant changes in recent years, but there is much more to be done. The Department of Labor is working to meet this challenge head on. Programs are being developed that will raise the educational and work-readiness levels of new entrants into the workforce. In addition, we are striving to improve the skills of those already employed. However, successful programs or legislation passed by Congress will not automatically lead to an improved workforce. Real and lasting success requires the involvement and mobilization of a concerned American citizenry. The 1991 Awards continue to encourage significant, community level involvement in upgrading the quality of the workforce and honor the discovery and application of creative solutions to the workforce crisis. Exemplary efforts on the part of employers, unions, employee groups, educational organizations and communities will be recognized and promoted. Private sector employers, trade associations, community organizations, schools, community and junior colleges, and labor and educational organizations are eligible to receive awards for outstanding achievement in designing and managing exemplary programs, or for contributing to the success of such programs. The four categories of LIFT Awards are as follows:

Business-School Partnerships

- Programs in which the private sector helps school systems or individual schools, including job entry preparation programs at community and junior colleges. These programs improve the education of youth, and have a strong impact on the educational system and academic achievement of students.

School-to-Work Programs

- Programs which focus on providing employment-bound youth a structured and effective transition from school to work.

Employee Training Programs

- Employer supported basic and occupational training programs which upgrade the skills of employed and entry-level workers.

Employee Worklife Programs

- Programs which improve the quality of worklife, or the relationships between workers and management, or reduce the conflicts between work and family responsibilities.

Award Process

Timetable

The Office of the Assistant Secretary for Policy, with help from the Employment and Training Administration and other agencies within the Department of Labor, will direct the award process.

Nominations, including those from organizations nominating themselves for an award, should be submitted to the Office of the Assistant Secretary for Policy, U.S. Department of Labor, room S2114, 200 Constitution Ave., NW, Washington, DC 20210.

Staff of the Department of Labor will conduct an initial review of the nominations. Recommendations will be made for further consideration by an executive committee made up of senior members of the Department. The executive committee may be helped by public and private sector experts in the field of human resource development in making final recommendations to the Secretary of Labor. The executive committee may direct the staff to make further contact with specific programs, including site visits, before making the final recommendations to the Secretary.

Recommendations of the executive committee will be reviewed by the Secretary of Labor. The Secretary will make the final selection of awardees. There may be as many as three awards in each category. The final number of awards will depend upon the number and quality of nominations.

The LIFT Award schedule is as follows:

- Nominations must be postmarked by May 31, 1991.
- Nominations will be reviewed during June and July.
- Recommendations will be made to the executive committee by July 15.
- Final recommendations will be made to the Secretary by August 20.
- Public announcement of awards and the awards ceremony will take place later this year.

Selection Criteria

Please note that the LIFT Nomination Form requires specific information reviewers will need about nominees. This information is to be provided in items 8 and 9 of the form (see guidelines below). The general criteria listed here will be applied in reviewing nominees. Each criteria has a numerical weight which will be used to evalute nominees in each of the four program award categories.

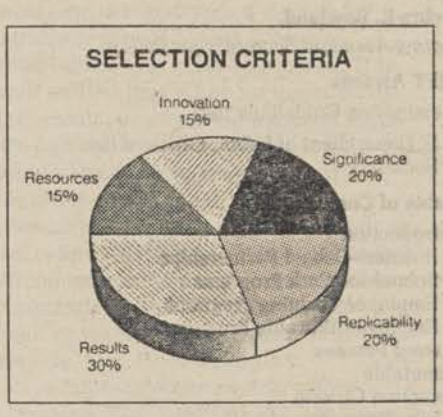
Significance (20 pts.) The level of importance and degree of urgency of the problem to which the program is addressed. A significant program is one which addresses problems with major and long-range implications at the national, regional or local levels (for example, illiteracy among the workforce).

Innovation (15 pts.) The level of creativity exhibited in the design and conduct of the program. An innovative program is one which applies novel or previously untested approaches to addressing the identified problem.

Resources (15 pts.) The level of personnel or financial resources devoted to the program by an employer or a school. This will depend on the type of problem being addressed. Resources may be obtained through linkages with other organizations and programs.

Results (30 pts.) The program's effectiveness in meeting its goals and the impact on the problem the program is addressing. A successful program is one which results in significant alleviation or correction of the problem.

Replicability (20 pts.) The extent to which knowledge, experience and techniques have been developed which can be used successfully by others. Replicable programs are those which have generated knowledge, experience or approaches which can be or are readily transferable.



Guidelines for Items 8 & 9 of Nomination Form

General guidelines for Item 8 (Program Description), and Item 9 (Selection Criteria), are presented below. The descriptions of the types of information requested are illustrative only, and will vary according to the program being nominated. However, newspaper articles, testimonials, reports, video tapes and other extraneous materials should not be submitted.

Business-School Partnership

Program description. Complete item 8 for a Business-School Partnership by describing the program and the services provided. This might include the following:

- How the specific school(s) were selected for participation.
- A profile of the students, including those with special needs, and the school(s) in the program, the grade level and number of students in the program.
- How student eligibility is defined and determined.
- The nature of service or activities (for example, tutoring, mentoring, career counseling, advice to school system on curriculum).
- Any tuition reimbursement or grants to teachers for further study, summer employment for teachers, counselors, and/or students, work-study or cooperative education programs, and internships.
- How the program addresses the need to upgrade worker skills.

Selection criteria. Complete item 9 for a Business-School Partnership nomination, by including the following criteria, where applicable:

Significance

- The problem being addressed.
- The goals or aims of the program as they relate to the problem.
- How and why the program was developed, and who was involved.

Innovation

- The approach used by the program to achieve its goals, emphasizing the ways in which the approach is creative or unique.
- How the program advances knowledge or the state-of-the-art.
- The use of new technology, curriculum, organizational relationships, or combined academic and work experience.

Resources

- The nature and extent of employer personnel and financial resources committed to the program. Include the number of managers and employees involved during the normal work day and after hours.
- School resources committed to the partnership and resources obtained through linkages with other organizations and programs.
- The use of employer equipment and facilities.
- The purchase or loan of equipment, supplies and materials.
- Any community involvement and parental participation.

Results

- The effect and impact of the program, and how these results were determined.
- The number of students in the program compared to the total school enrollment.
- Improvements in the basic skills—for example, reading, math, and problem solving skills—of participants.
- Changes in school dropout rates.

• How the program helped students make the connection between good school achievement and good jobs.
• Student and employer reaction to the program.
• Any plans for followup.

Replicability

• The potential for replication or adaptation of the program in other geographical areas of the country, and by other schools or school districts and firms in different areas and industries.
• The use of curricula, agreements, performance standards or competencies, by other partnerships.
• The ways the program can be used to enhance the work readiness and competitiveness of new, young members of the American workforce.

School-To-Work Program

Program description. Complete item 8 for a School-to-Work Program, by describing the program and the services provided. These might include the following:
• How the specific school(s) were selected for participation.
• A profile of the students, including those with special needs, and the school(s) in the program, the grade level and number of students in the program. How student eligibility is defined and determined.
• How curriculum was developed and its use for basic skills development and career education.
• Methods used to assess student needs.
• Methods of assessing employer skill needs.
• A description of the school-to-work transition approach, specifying the methodology that provides participants with a contextual learning experience at the workplace and leads to employment with a career path or to future educational opportunities.

Selection Criteria. Complete item 9 for a School-to-Work nomination, by including the following, where applicable:

Significance

• The problem being addressed.
• The goals or aims of the program as they relate to the following:

High standards—Programs to encourage participants to attain the same academic achievement levels required of other high school graduates.

Staying in school—Programs that motivate youth to stay in school and complete their education.

Linking work and learning—Programs that directly link classroom curriculum to the worksite experience and learning, or teach technical job skills.

Employment and careers—Programs that enhance the participants' prospects for immediate employment after leaving school and for entry on a path that provides significant opportunity for continued education and career development.
• How and why the program was developed and who was involved.
• The number of students involved and number of hours per week.

Innovation

• The approach used by the program to achieve its goals, emphasizing the ways in which the approach is innovative or unique.
• How the program links classroom learning to learning at the worksite.
• The use of new technology, curriculum, organizational relationships, or combined academic and work experience.

Resources

• The nature and extent of involvement by a local school or school district, including the commitment of teaching resources and physical facilities. Elaborate if students have special needs.
• The degree to which the school curriculum is designed to relate to learning at the worksite.
• The nature and extent of employer involvement, including the commitment of specific resources, such as facilities for worksite learning, employer personnel and their contributions, payment for work experiences during the training period, and prospects for continued employment after the program is completed.
• The utilization of employer materials, equipment and facilities.
• Community involvement and parental participation.
• Quantitative factors such as the number of schools, teachers, students, employer personnel, and partners.
• Qualitative factors such as wage levels of participants, length of job training, achievement of credentials, and continued employment after graduation.

Results

• The outcomes and impact of the program, and how the effectiveness of the program was determined.
• Changes in student skills acquisition, attitudes, and dropout rates as a result of program participation.
• The number of students obtaining training-related jobs.
• The employment/unemployment and earnings experiences of graduates (including the kinds of jobs).
• The extent to which the program helps in the transition from school to work, improves the academic achievement levels of students, results in students completing high school, links classroom curriculum to worksite learning and increases the relevance of school to student occupational goals, develops work-related skills and competencies, and leads to meaningful employment with a career path.

Replicability

• The potential for replication or adaptation of the program by other school districts and in other geographical areas.
• The degree of involvement by national industry, education, and special interest organizations and by State government agencies with the capacity to effect significant change.
• The use of the findings and results of the program by others.

Employee Training Program

Program Description. Complete item 8 for an Employee Training Program, by describing the program and the services provided. This might include the following:
• The training system of the firm, and its connection to the way the company manages change, organizational development, and advancement.
• Evidence of top management's commitment to the training program.
• The involvement of trainees in developing programs and curricula.
• Occupations for which training is conducted.
• Procedures for recruitment, selection, assessment and assignment to training. Discuss participation of workers with disabilities, if applicable.
• Curriculum development and use.
• Services that are provided to meet the needs of participants.
• The use of basic skills training and customized training.

Selection criteria. Complete item 9 for an Employee Training Program, by including the following, where applicable:

Significance

• The specific problem being addressed by the program.
• How and why the program was developed, and who was involved.
• Goals and objectives of the program as they relate to the problem.

Innovation

• The approach used by the program to achieve its objective, emphasizing the ways in which the approach is creative, unique or different from other programs.
• Strategies to determine and achieve participant goals. How innovative the

program design is in meeting the needs of the workforce.

• How the program advances knowledge or the state-of-the-art.

• The use of new technology.

Resources

• The nature and extent of employer personnel and financial resources committed to the program, including the number of employer managers and employees involved during the normal work day and after hours.

• The use of employer equipment and facilities.

• The types of company employees and funds used to operate the program.

• The involvement of the community and its resources, including linkages with other organizations and programs in the community.

• Innovative methods of funding or resource mobilization.

Results

• The number of people served in the program and how the program helped them.

• How participant progress is systematically evaluated (for example, GED, certification, or improvement in skill development).

• The impact of participation in the program on the employee and the company, including productivity.

• How the effectiveness of the program was determined.

• How training and employment goals are established. The methods used to determine whether the program meets participant needs.

• How the program increases performance and skill levels.

• The trainer performance evaluation measures that are built into the program.

• The extent to which participants can take advantage of advancement opportunities.

• The reaction of participants and their supervisors to the post-training experience of participants. How the life of participants has been changed.

Replicability

• The potential for the replication or adaptation of the program in other areas, and by other firms in different industries.

• The development of model training programs.

• The use of the achievements, findings, and results of the program by others.

• How the program enhances work readiness and competitiveness of the American workforce.

• Government or private agencies which could provide support to facilitate replicability.

Employee Worklife Program

Program description. Complete item 8 for an Employee Worklife Program, by describing the program and the services provided. This might include the following:

• Employee participation in decision-making at the worksite, collective bargaining or corporate levels.

• Labor-management cooperative arrangements at the worksite, collective bargaining or corporate levels.

• Quality of worklife programs.

• Employee involvement programs.

• Self-managed work teams.

• Labor-management committees.

• New system design arrangements containing a cooperative element.

• Problem-solving approaches to grievance settlement.

• Flexible work arrangements to respond to the demographics of the new workforce, including flexible workdays, compressed workweeks, flexible sick and vacation schedules, and seasonal employment arrangements.

• Family care arrangements for dependent children or parents. The kinds of services offered, to whom, publicity and innovation.

• The use of flexible benefit plans to accommodate the needs of a diverse workforce, including shifting responsibility to employees for the selection of individual benefit packages.

• Employee participation in work and family decision-making.

• Employee Assistance Programs to help employees, including workers with disabilities, resolve problems which affect workplace performance through the use of confidential counseling, referrals and followup services.

• Health and safety issues.

Selection criteria. Complete item 9 for an Employee Worklife Program by including the following, where applicable:

Significance

• The problem being addressed.

• The goals and aims of the program.

• How and why the program was developed, and who was involved.

• How the program responds to the changing demographics of the workforce.

Innovation

• The approach used by the program to achieve its goal, emphasizing creativity or uniqueness.

• The ways in which the program represents an advancement in employee worklife programs and practices.

• The utilization of new organizational relationships or linkages.

• New approaches to balancing work and family responsibilities.

Resources

• The nature and extent of employer personnel and financial resources committed to the program.

• Use of employer materials, equipment and facilities.

• Community involvement.

• Resources obtained through linkages with other organizations and programs (e.g., employee counseling services, child and elder care).

• Significant benefits, services and other arrangements for meeting work and family needs.

Results

• The impact of the program, and how the effectiveness of the program is measured.

• The extent to which program services are diffused among the workforce.

• The effect of the program on worker productivity and/or product quality, in relation to the cost of the program.

• The effect of the program on worker morale.

• The effect of the program on attracting new employees, and/or retaining current employees.

• The effect of the program on the labor-management relationship.

• The extent to which the program services are available and used by a broad spectrum of company employees, including those with disabilities.

Replicability

• The potential for replication or adaptation of the program in other areas, and by other firms in different industries.

• The development of model employee worklife programs.

• The use of the achievements, findings, and results of the program by others.

• Ways to help workers reconcile work and family responsibilities and increase competitiveness of the American workforce.

BILLING CODE 4510-23-M

Nomination Form

Please *type* or *clearly print* all information requested. All nominations must include responses to items 1 through 9 below. Please note that for items 8 and 9, specific information is required for each particular award category, *as indicated in the Guidelines for completing the Form.* Third-party nominations will be accepted but must include the signature of the nominee required in item 7.

1. Nominee

Name of Organization

Address

2. Highest Ranking Official

Name Title

Address

Telephone No.

3. Description of Organization

4. Award Category *(Mark only one category. An original nomination form, plus one copy must be submitted for each category of nomination.)*

_____ **Business-School Partnership**
_____ **School-to-Work Program**
_____ **Employee Training Program**
_____ **Employee Worklife Program**

5. Contact Person if Further Information is Needed

Name Title

Street

City/State ZIP Code

Telephone No. Telefax No.

6. Statement

It is understood that this nomination will be reviewed by representatives of the U.S. Department of Labor. The organization identified above in item 1 will, if asked, provide additional information in support of this nomination. Further, any information furnished as part of this nomination process may be made available to the public.

7. Signature, Highest Ranking Official, or Designee

Date

Print or Type Name Title

Street

City/State ZIP Code

Telephone No.

ASP - 1
(This form may be copied)
No. 1225-0051: Approval Expires 3/93

8. Program Description.

See Guidelines beginning on Page 4, and describe the program and the services provided.

9. Selection Criteria.

See Guidelines and provide information appropriate to the nomination category and organized according to the program's significance (20 points), innovation (15 points), resources (15 points), results (30 points), and replicability (20 points). If necessary, up to 10 additional pages may be attached.

[FR Doc. 91-7718 Filed 4-1-91; 8:45 am]

BILLING CODE 4510-23-C

Employment and Training Administration

Bridgestone Firestone & Rubber Co. et al.; Investigations Regarding Certifications of Eligibility To Apply for Worker Adjustment Assistance

Petitions have been filed with the Secretary of Labor under section 221(a) of the Trade Act of 1974 ("the Act") and are identified in the Appendix to this notice. Upon receipt of these petitions, the Director of the Office of Trade Adjustment Assistance, Employment and Training Administration, has instituted investigations pursuant to section 221(a) of the Act.

The purpose of each of the investigations is to determine whether the workers are eligible to apply for adjustment assistance under title II, chapter 2, of the Act. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

The petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than April 12, 1991.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than April 12, 1991.

The petitions filed in this case are available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Employment and Training Administration, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210.

Signed at Washington, DC this 18th day of March 1991.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

APPENDIX

Petitioner (union/workers/firm)	Location	Date received	Date of petition	Petition No.	Articles produced
Bridgestone Firestone & Rubber Co. (Wkrs)	Oklahoma City, OK	03/18/91	03/04/91	25,542	Tires.
Durham Knitting Mills, Inc. (Wkrs)	Maynardville, TN	03/18/91	02/25/91	25,543	Shirts.
Explosives Technologies Intl. (Wkrs)	Mortonville, KY	03/18/91	03/03/91	25,544	Explosives.
F-Dyne Electronics, Inc. (UE)	Bridgeport, CT	03/18/91	03/01/91	25,545	Capacitors.
Freeman Shoe Co. (Wkrs)	Beloit, WI	03/18/91	03/07/91	25,546	Footwear.
G&M Knitting Mill (Wkrs)	Ridgewood Queens, NY.	03/18/91	03/07/91	25,547	Knitwear.
G.H. Bass & Co. (Wkrs)	Wilton, ME	03/18/91	03/04/91	25,548	Footwear.
Glasgow Mfg., Co. (ILGWU)	Glasgow, KY	03/18/91	03/05/91	25,549	Womenswear.
Globe Industries, Inc. (RWDSU)	Rossford, OH	03/18/91	03/04/91	25,550	Trim Auto Parts.
Grant Norpac, Inc. Surveys (Wkrs)	Traverse City, MI	03/18/91	03/05/91	25,551	Geophysical.
Hartco-Tibbals Flooring Co. (USWA)	Oneida, TN	03/18/91	03/01/91	25,552	Hardwood Flooring.
Hoover Tool & Die (Wkrs)	Warren, MI	03/18/91	03/07/91	25,553	Dies, Machines, & Tooling.
Irvin Automotive/Takata, Inc. (ACTWU)	Dandridge, TN	03/18/91	03/06/91	25,554	Auto Trims.
Lee Co. (Wkrs)	Kansas City, MO	03/18/91	01/07/91	25,555	Jeans.
McFarland, CO (GCIU)	Harrisburg, PA	03/18/91	02/17/91	25,556	Printed Material.
Mecon Mfg. (Wkrs)	Oxford, ME	03/18/91	02/27/91	25,557	Protector Boxes.
Megastar Apparel Co. (Wkrs)	Albemarle, NC	03/18/91	03/12/91	25,558	Apparel.
Megastar Apparel Group, HQ (Wkrs)	Paramus, NJ	03/18/91	03/12/91	25,559	Apparel.
Megastar, Carolina Sportswear (Wkrs)	Norlina, NC	03/18/91	03/12/91	25,560	Apparel.
Megastar, Carolina Sportswear (Wkrs)	Warrenton, NC	03/18/91	03/12/91	25,561	Apparel.
Megastar, Creedmoor Sportswear (Wkrs)	Creedmore, NC	03/18/91	03/12/91	25,562	Apparel.
Megastar, H&H Manufacturing (Wkrs)	Statham, GA	03/18/91	03/12/91	25,563	Apparel.
Megastar, Lacrosse Sportswear (Wkrs)	Lacrosse, VA	03/18/91	03/12/91	25,564	Apparel.
Megastar, Lexington Sportswear (Wkrs)	Lexington, SC	03/18/91	03/12/91	25,565	Apparel.
Megastar, Louisburg Sportswear (Wkrs)	Louisburg, NC	03/18/91	03/12/91	25,566	Apparel.
Megastar, St. Paul Sportswear (Wkrs)	St. Paul, VA	03/18/91	03/12/91	25,567	Apparel.
Megastar, Ace Sweater Mill Indust. (Wkrs)	Union, SC	03/18/91	03/12/91	25,568	Apparel.
MRC-SKF Aerospace Bearings (USWA)	Philadelphia, PA	03/18/91	03/08/91	25,569	Bearings.
National Ind. Inc., Pt.#5 (Wkrs)	Wetumpka, AL	03/18/91	02/25/91	25,570	Wiring Assemblies.
National Ind. Inc., Pt.#1 (Wkrs)	W. Montgomery, AL	03/18/91	02/25/91	25,571	Wiring Assemblies.
National Ind. Inc., Pt.#3 (Wkrs)	Montgomery, AL	03/18/91	02/25/91	25,572	Wiring Assemblies.
National Ind. Inc., Pt.#7 (Wkrs)	Union Springs, AL	03/18/91	02/25/91	25,573	Wiring Assemblies.
North Amer. Philips Lighting (Wkrs)	Warren, PA	03/18/91	03/06/91	25,574	Lighting.
Ocean Product, Inc. (Wkrs)	Portland, ME	03/18/91	02/18/91	25,575	Salmon.
Ocean Products, Inc. (Company)	Castport, ME	03/18/91	02/18/91	25,576	Salmon.
Ocean Products, Inc. (Company)	Debois, ME	03/18/91	02/18/91	25,577	Salmon.
Ocean Products, Inc. (Company)	Machias, ME	03/18/91	02/18/91	25,578	Salmon.
Otis Elevator, NAO (Wkrs)	Tucson, AZ	03/18/91	03/06/91	25,579	Elevators parts.
Pennsylvania Power (Wkrs)	Shippingport, PA	03/18/91	03/07/91	25,580	Electrical Power.
Shelby Williams Industries, Inc. (UTWA)	Morristown, TN	03/18/91	03/04/91	25,581	Seats.
Stearns & Foster (Wkrs)	So. Brunswick, NJ	03/18/91	03/06/91	25,582	Mattresses & Bed Springs.
Toshiba-Amer. Consumer Prod. Inc. (IBEW)	Lebanon, TN	03/18/91	03/06/91	25,583	Microwave Ovens.
Xerox Corp. (ACTWU)	Pomona, CA	03/18/91	03/06/91	25,584	Circuit Boards.

[FR Doc. 91-7719 Filed 4-1-91; 8:45 am]

BILLING CODE 4510-30-M

[TA-W-25, 247]

Damson Oil Corp.; Amended Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

Damson Oil Corp.; Headquartered in Houston, TX and Operating at Various Locations in the Following States:

TA-W-25,247A California
TA-W-25,247B Colorado
TA-W-25,247C Illinois
TA-W-25,247D Indiana
TA-W-25,247E Louisiana
TA-W-25,247F Montana
TA-W-25,247G New Mexico
TA-W-25,247H North Dakota
TA-W-25,247I Oklahoma
TA-W-25,247J Pennsylvania
TA-W-25,247K Texas (except Houston)
TA-W-25,247L Wyoming

In accordance with section 223 of the Trade Act of 1974 (19 USC 2273) the Department of Labor issued a Certification of Eligibility to Apply for Worker Adjustment Assistance on February 26, 1991, applicable to all workers of Damson Oil Corporation, headquartered in Houston, Texas and operating at various locations in the above cited States. The Certification was published in the **Federal Register** on March 19, 1991 (56 FR 11579).

The Department, on its own motion is amending the certification by changing the impact date to January 31, 1991. The Department inadvertently set the impact date to February 1, 1991. The intent of the certification is to include all workers of Damson Oil Corporation headquartered in Houston, Texas and operating at various locations in the above cited States.

The amended notice applicable to TA-W-25,247 is hereby issued as follows:

All workers of Damson Oil Corporation, headquartered in Houston, Texas (TA-W-25, 247) and operating at various locations in California, Colorado, Illinois, Indiana, Louisiana, Montana, New Mexico, North Dakota, Oklahoma, Pennsylvania, Texas (except Houston) and Wyoming who became totally or partially separated from employment on or after January 31, 1991 are eligible to apply for adjustment assistance under section 223 of the Trade Act of 1974.

Signed at Washington, DC., this 22nd day of March 1991.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 91-7720 Filed 4-1-91; 8:45 am]

BILLING CODE 4510-30-M

[TA-W-25,031 et al.]

Gary Co., Inc., Gallatin, TN; et al.; Amended Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 (19 USC 2273) the Department of Labor issued a Certification of Eligibility to Apply for Worker Adjustment Assistance on Janury 29, 1991 applicable to all workers of the above subject firms. The notice was published in the **Federal Register** on February 26, 1991 (56 FR 7067).

The Department, on its own motion, is amending the certification by changing the impact date to December 1, 1989. The Department had inadvertently set the impact date as October 24, 1990. The intent of the certification is to include all workers at the subject firms who were adversely affected by increased imports of articles like or directly competitive with men's dress shirts. The amended notice applicable to the above subject firms is hereby issued as follows:

All workers of the subject firms listed below who became totally or partially separated from employment on or after December 1, 1989 are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974.

Gary Co., Inc.—Gallatin, TN	TA-W-25,031
Scott Co., Inc.—Anderson, SC	TA-W-25,228
Bold Enterprises, Inc.—Spartanburg, SC.	TA-W-25,239
Raycord, Inc.—Spartanburg, SC.	TA-W-25,239A

Signed in Washington, DC, this 21st day of March, 1991.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 91-7721 Filed 4-1-91; 8:45 am]

BILLING CODE 4510-30-M

[TA-W-25,140]

The Hoover Co., North Canton, Ohio; Affirmative Determination Regarding Application for Reconsideration

By a letter dated February 22, 1991, Local #1985 of the International Brotherhood of Electrical Workers requested administrative reconsideration of the Department of Labor's Notice of Negative Determination Regarding Eligibility to Apply for Worker Adjustment Assistance for workers and former workers of The Hoover Company, North Canton, Ohio. The Negative Determination was issued on January 25, 1991 and published in the **Federal Register** on February 21, 1991 (56 FR 7066).

The union claims that the Department's import data used in the subject denial was too general for the vacuum cleaners produced at North Canton. The union provided official government import data for 1990 showing increased imports of vacuum cleaners of 5 kg or larger, the type produced at North Canton.

Conclusion

After careful review of the application, I conclude that the claims are of sufficient weight to justify reconsideration of the Department of Labor's prior decision. The application is, therefore, granted.

Signed at Washington, DC, this 22nd day of March 1991.

Robert O. Deslongchamps,

Director, Office of Legislation & Actuarial Services, Unemployment Insurance Service.

[FR Doc. 91-7722 Filed 4-1-91; 8:45 am]

BILLING CODE 4510-30-M

[TA-W-25, 177]

Marathon Oil Co.; Houston Administrative Services, Houston, TX; Dismissal of Application for Reconsideration

Pursuant to 29 CFR 90.18 an application for administrative reconsideration was filed with the Director of the Office of Trade Adjustment Assistance for workers at Marathon Oil Company, Houston Administrative Services, Houston, Texas. The review indicated that the application contained no new substantial information which would bear importantly on the Department's determination. Therefore, dismissal of the application was issued.

TA-W-25, 177; Marathon Oil Company, Houston Administrative Services, Houston, TX (March 15, 1991)

Signed at Washington, DC this 18th day of March, 1991.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 91-7723 Filed 4-1-91; 8:45 am]

BILLING CODE 4510-30-M

Determinations Regarding Eligibility To Apply for Worker Adjustment Assistance; Patty Precision Products Co., et al.

In accordance with section 223 of the Trade Act of 1974 (19 USC 2273) the Department of Labor herein presents summaries of determinations regarding eligibility to apply for adjustment assistance issued during the period of March 1991.

In order for an affirmative determination to be made and a certification of eligibility to apply for adjustment assistance to be issued, each of the group eligibility requirements of section 222 of the Act must be met.

(1) That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated,

(2) That sales or production, or both, of the firm or subdivision have decreased absolutely, and

(3) That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

Negative Determinations

In each of the following cases the investigation revealed that criterion (3) has not been met. A survey of customers indicated that increased imports did not contribute importantly to worker separations at the firm.

TA-W-25,264; Patty Precision Products Co, Sapulpa, OK
TA-W-25,354; Armament Components, Inc., Sapulpa, OK
TA-W-25,028; Eagle Shirtmakers, Mahanoy City, PA
TA-W-25,225; Mid-State Machine Products, Winslow, ME
TA-W-25,032; General Motors Corp., Inland Fisher Guide Div., Trenton, NJ
TA-W-25,082; United Technologies Automotive, Kenton, OH
TA-W-25,186; Superior Clothing Co., Philadelphia, PA
TA-W-25,297; Osicom Technologies, Rockaway, NJ
TA-W-25,178; Modern Coat Co., Philadelphia, PA
TA-W-25,289; John A. Roberts, Inc., Newark, NJ
TA-W-25,292; Leon Clothing, Boston, MA
TA-W-25,151; SKW Alloys, Inc., Calvert City, KY
TA-W-25,323; Pea Ridge Iron Ore Co., Inc., Sullivan, MO
TA-W-25,117; Hyden Industries, Fergus Falls, MN
TA-W-25,241; Bradford Electronics, Inc., Bradford, PA
TA-W-25,236; Bates Fabrics, Inc., Lewiston, ME
TA-W-25,092; Foamex LP, Leroy, NY
TA-W-25,327; Sensus Technologies, Uniontown, PA
TA-W-25,248; Detroit Strip Div., Cyclops Corp., Detroit, MI
TA-W-25,306; ACI-Standard, Steubenville, OH
TA-W-25,328; Target Product, Inc., Leroy, NY
TA-W-25,243; Continental Plastic Containers, Inc., Milltown, NJ
TA-W-25,125; Bio-Stimu Trend Corp., Opa Locka, FL

In the following cases, the investigation revealed that the criteria for eligibility has not been met for the reasons specified.

TA-W-25,254; Herlitz, Inc., Gailand, TX

Increased imports did not contribute importantly to worker separations at the firm.

TA-W-25,329; Trilogy Communications, Freehold, NJ

Increased imports did not contribute importantly to worker separations at the firm.

TA-W-25,294; Nagels & Sons Gladioli Farm, Inc., Three River, MI

The investigation revealed that criterion (2) has not been met. Sales or production did not decline during the relevant period as required for certification.

TA-W-25,275; Thomas Electronic, Inc., Wayne, NJ

The investigation revealed that criterion (2) has not been met. Sales or production did not decline during the relevant period as required for certification.

TA-W-25,291; Lee Apparel Co., St. Joseph, MO

Increased imports did not contribute importantly to worker separation at the firm.

TA-W-25,290; Lastic, Inc., Hillsboro, OR

The workers' firm does not produce an article as required for certification under section 222 of the Trade Act of 1974.

TA-W-25,288; Hogan-Allnoch Co., Houston, TX

The workers' firm does not produce an article as required for certification under section 222 of the Trade Act of 1974.

TA-W-25,284; C-Cor Electronics, Inc., Altoona, PA

Increased imports did not contribute importantly to worker separation at the firm.

TA-W-25,285; C-Cor Electronics, Inc., State College, PA

Increased imports did not contribute importantly to worker separations at the firm.

TA-W-25,365; Great Dane Trailers, Inc., Savannah, GA

Increased imports did not contribute importantly to worker separations at the firm.

TA-W-25,298; Precision Rolled Products, Inc., New Kensington, PA

Increased imports did not contribute importantly to worker separations at the firm.

TA-W-25,326; Seattle Steel, Inc., Seattle, WA

Increased imports did not contribute importantly to worker separations at the firm.

TA-W-25,335; Bill's Truck Town, Colorado City, TX

The workers' firm does not produce an article as required for certification under section 222 of the Trade Act of 1974.

TA-W-25,496; General Motors Corp., Service Parts Organization Pittsburgh, PA

The workers' firm does not produce an article as required for certification under section 222 of the Trade Act of 1974

TA-W-25,209; Manville Sales Corp., Plant #8, Defiance, OH

Increased imports did not contribute importantly to worker separations at the firm.

TA-W-25,207; Manville Sales Corp., Plant #2, Defiance, OH

Increased imports did not contribute importantly to worker separations at the firm.

TA-W-25,324; Philips Consumer Electronics Co., E. Rutherford, NJ

The workers' firm does not produce an article as required for certification under section 222 of the Trade Act of 1974.

TA-W-25,302; Storage Technology Corp., Customer Services—Printer Operations, Melbourne, FL

Increased imports did not contribute importantly to worker separations at the firm.

TA-W-25,322; Ozalid Corp., Binghamton, NY

Increased imports did not contribute importantly to worker separations at the firm.

TA-W-25,299; Rocky Mountain Industries, Inc., Mills, WY

The workers' firm does not produce an article as required for certification under section 222 of the Trade Act of 1974.

TA-W-25,310; Cagle Oilfield Services, Inc., Tulsa, OK

The workers' firm does not produce an article as required for certification under section 222 of the Trade Act of 1974.

TA-W-25,529; Dallas & Mavis, Buffalo, NY

The workers' firm does not produce an article as required for certification under section 222 of the Trade Act of 1974.

TA-W-25,325; Potlatch Corp., Clearwater Unit, Lewiston, ID

Increased imports did not contribute importantly to worker separations at the firm.

TA-W-25,312; Consolidated Oilfield Rentals, Inc., Clinton, OK

The workers' firm does not produce an article as required for certification under section 222 of the Trade Act of 1974.

Affirmative Determinations

TA-W-25,169; Johnson Controls, Watertown, WI

A certification was issued covering all workers separated on or after November 27, 1989.

TA-W-25,132; Dot Togs, Inc., Rickland, MA

A certification was issued covering all workers separated on or after November 9, 1989.

TA-W-25,386; General Foods Corp., BOC Leeds, Kansas City, MO

A certification was issued covering all workers separated on or after March 1, 1991.

TA-W-25,216; Pillsbury Green Giant, Watsonville, CA

A certification was issued covering all workers separated on or after November 20, 1989.

TA-W-25,232; Wooster Manufacturing Co., Inc., Wooster, OH

A certification was issued covering all workers separated on or after November 5, 1989.

TA-W-25,045; National Broch & Machine, Mt. Clemens, MI

A certification was issued covering all workers separated on or after October 25, 1989.

TA-W-25,253; General Plastic Corp., Marion, IN

A certification was issued covering all workers separated on or after December 12, 1989.

TA-W-25,296; Northern Telecom, Morton Grove, IL

A certification was issued covering all workers separated on or after December 30, 1989.

TA-W-25,270; Publix Shirt Co L.P., Columbia, TN

A certification was issued covering all workers separated on or after December 21, 1989.

TA-W-25,167; Jacob Sigel Philadelpia, PA

A certification was issued covering all workers separated on or after November 20, 1989.

TA-W-25,271; Sandvik Special Metals Corp., Kennewick, WA

A certification was issued covering all workers separated on or after December 10, 1989.

TA-W-25,102; Pine State Knitwear, Bluefield, WV

A certification was issued covering all workers separated on or after October 26, 1989 and November 30, 1990.

TA-W-25,146; Night Way, Inc., New York, NY

A certification was issued covering all workers separated on or after November 16, 1989.

TA-W-25,303; Storagetek Printer Operations, Melbourne, FL

A certification was issued covering all workers separated on or after January 3, 1990.

TA-W-25,210; Michael J. Fashion, Oceanside, NY

A certification was issued covering all workers separated on or after December 1, 1989 and before November 1, 1990.

TA-W-25,331; Van Dorn Plastic Machinery Co., A Div. of Van Dorn Co., Cleveland, OH

A certification was issued covering all workers separated on or after January 1, 1990.

TA-W-25,155; Arden/Brenhar, Los Angeles, CA

A certification was issued covering all workers separated on or after November 16, 1989.

TA-W-25,050; Marietta Sportswear Mfg. Co., Marietta, OK

A certification was issued covering all workers separated on or after October 8, 1989.

TA-W-25,283; Amboy Knit, Perth Amboy, NJ

A certification was issued covering all workers separated on or after December 28, 1989.

TA-W-25,338; Coleman Products Co., Tuscon, AZ

A certification was issued covering all workers separated on or after January 17, 1989.

TA-W-25,311; California Manufacturing Co., St. James, MO

A certification was issued covering all workers separated on or after January 7, 1990.

TA-W-25,266; Perkiomen Clothing Co., Inc., Red Hill, PA

A certification was issued covering all workers separated on or after December 15, 1989 and December 23, 1990.

TA-W-25,314; Electronic Interconnect Systems, Nogales, AZ

A certification was issued covering all workers separated on or after January 8, 1990.

I hereby certify that the aforementioned determinations were issued during the month of March, 1991. Copies of these determinations are available for inspection in room C-4318, U.S. Department of Labor, 200 Constitution Avenue NW., Washington, DC 20210 during normal business hours or will be mailed to persons to write to the above address.

Dated: March 25, 1991.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 91-7724 Filed 4-1-91; 8:45 am]

BILLING CODE 4510-30-M

[TA-W-25,154]

Whirlpool Corp.; Mt. Sterling, KY; Negative Determination Regarding Application for Reconsideration

By an application dated March 2, 1991, Local #1562 of the United Auto Workers (UAW) requested administrative reconsideration of the subject petition for trade adjustment assistance. The denial notice was signed on January 31, 1991 and published in the **Federal Register** on February 26, 1991 (56 FR 7066).

Pursuant to 29 CFR 90.18(c) reconsideration may be granted under the following circumstances:

(1) If it appears on the basis of facts not previously considered that the determination complained of was erroneous;

(2) if it appears that the determination complained of was based on a mistake in the determination of facts not previously considered; or

(3) if in the opinion of the Certifying Officer, a misinterpretation of facts for of the law justified reconsideration of the decision.

Investigation findings show that the workers produced dishwashers and trash compactors and were not separately identifiable by product. Dishwashers accounted for the predominant portion of production and

sales. The Mt. Sterling plant closed in 1990.

In order for a worker group to become certified eligible to apply for adjustment assistance it must meet all three of the Group Eligibility Requirements of the Trade Act—a significant decrease in employment, an absolute decrease in sales or production and an increase in imports "contributing importantly" to worker separations and declines in sales or production.

In this case the "contributed importantly" test was not met since the worker separations on the predominate product (dishwashers) were due to a domestic transfer of production. A domestic transfer of production would not form a basis for a worker group certification. Other findings show that the remaining production of trash compactors was not sufficient enough to keep the Mt. Sterling plant in operation. Accordingly, the transfer of dishwasher production to a domestic facility was the "dominant cause" for worker separations on trash compactors. Worker separations would have occurred on trash compactor production regardless of imports.

Conclusion

After review of the application and investigative findings, I conclude that there has been no error or misinterpretation of the law or of the facts which would justify reconsideration of the Department of Labor's prior decision. Accordingly, the application is denied.

Signed at Washington, DC, this 22nd day of March 1991.

Robert O. Deslongchamps,

Director, Office of Legislation & Actuarial Services Unemployment Insurance Service.

[FR Doc. 91-7725 Filed 4-1-91; 8:45 am]

BILLING CODE 4510-30-M

Federal-State Unemployment Compensation Program; Extended Benefits; New Extended Benefit Period in the State of Michigan

This notice announces the beginning of a new Extended Benefit Period in the State of Michigan, effective on March 10, 1991, and remaining in effect for at least 13 weeks after that date.

Background

The Federal-State Extended Unemployment Compensation Act of 1970 (26 U.S.C. 3304 note) established the Extended Benefit Program as part of the Federal-State Unemployment Compensation Program. Under the Extended Benefit Program, individuals who have exhausted their rights to regular unemployment benefits (UI) under permanent State (and Federal) unemployment compensation laws may be eligible, during an extended benefit period, to receive up to 13 weeks of extended unemployment benefits, at the same weekly rate of benefits as previously received under the State law. The Federal-State Extended Unemployment Compensation Act is implemented by State unemployment compensation laws and by part 615 of title 20 of the Code of Federal Regulations (20 CFR part 615).

Each State unemployment compensation law provides that there is a State "on" indicator (triggering on an Extended Benefit period) for a week if the head of the State employment security agency determines that, for the period consisting of that week and the immediately preceding 12 weeks, the rate of insured unemployment in the State equaled or exceeded the State trigger rate. The Extended Benefit Period actually begins with the third week following the week for which there is an "on" indicator in the State. A benefit period will be in effect for a minimum of 13 weeks, and will end the third week after there is an "off" indicator.

Determination of an "On" Indicator

The head of the employment security agency of the State named above has determined that the rate of insured unemployment in the State for the 13-week period ending on February 23, 1991, equals or exceeds 5 percent and is 20 percent higher than the corresponding 13 weeks period in the prior two years, so that for that week there was an "on" indicator in the State.

Therefore, a new Extended Benefit Period commenced in the State with the week beginning on March 10, 1991. This period will continue for no less than 13 weeks, and until three weeks after a week in which there is an "off" indicator in the State.

Information for Claimants

The duration of extended benefits payable in the Extended Benefit Period, and the terms and conditions on which they are payable, are governed by the Act and the State unemployment compensation law. The State employment security agency will furnish a written notice of potential entitlement to extended benefits to each individual who has established a benefit year in the State that will expire after the new Extended Benefit Period begins. 20 CFR 615.13(c)(1). The State employment security agency also will provide such notice promptly to each individual who exhausts all rights under the State unemployment compensation law to regular benefits during the Extended Benefit Period. 20 CFR 615.13(c)(2).

Persons who believe they may be entitled to extended benefits in the State named above, or who wish to inquire about their rights under the Extended Benefit Program, should contact the nearest State employment service office or unemployment compensation claims office in their locality.

Signed at Washington, DC on March 26, 1991.

Robert T. Jones,

Assistant Secretary of Labor.

[FR Doc. 91-7726 Filed 4-1-91; 8:45 am]

BILLING CODE 4510-30-M

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice (91-30)]

NASA Advisory Council (NAC), Space Science and Applications Advisory Committee (SSAAC), Life Sciences Subcommittee; Meeting

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, Public Law 92-463, as amended, the National Aeronautics and Space Administration announces a forthcoming meeting of the NASA Advisory Council, Space Science and Applications Advisory Committee, Life Sciences Subcommittee.

DATES: April 16, 1991, 8:30 a.m. to 5:15 p.m.; and April 17, 1991, 8:30 a.m. to noon.

ADDRESSES: National Council on the Aging, room 141 A & B, 600 Maryland Avenue, SW., suite 100, West Wing, Washington, DC 20024.

FOR FURTHER INFORMATION CONTACT: Dr. Ronald J. White, Code SB, National Aeronautics and Space Administration, Washington, DC 20546 (202/453-1525).

SUPPLEMENTARY INFORMATION: The Space Science and Applications Advisory Committee consults with and advises the NASA Office of Space Science and Applications (OSSA) on long-range plans for, work in progress on, and accomplishments of NASA's Space Science and Applications programs. The Life Sciences Subcommittee provides advice to the Life Science Division concerning all of its programs in the space life sciences. The Subcommittee will meet to discuss the status of OSSA; the life sciences presentation to SSAAC, and the new initiatives. The Subcommittee is chaired

by Dr. Francis J. Haddy and is composed of 18 members. The meeting will be closed on Tuesday, April 16, 1991, from 9 a.m. to 11:15 a.m. to allow for a discussion on qualifications of individuals being considered for membership to the Subcommittee. Such a discussion would invade the privacy of the individuals involved. Since this session will be concerned with matters listed in 5 U.S.C. 552b(c)(6), it has been determined that the meeting will be closed to the public for this period of time. The remainder of the meeting will be open to the public up to the seating capacity of the room (approximately 45 including members of the Subcommittee). It is imperative that the meeting be held on these dates to accommodate the scheduling priorities of the key participants.

Type of Meeting: Open—except for a closed session as noted in the agenda below.

Agenda: Tuesday, April 16.
8:30 a.m.—Introduction and Chairman's Remarks.
8:45 a.m.—Report on Other Advisory Committees.
9 a.m.—Closed Session.
11:15 a.m.—Office of Space Science and Applications Status.
1:15 p.m.—Life Sciences Status.
2:15 p.m.—Preview of Life Sciences Presenation to SSAAC.
3:15 p.m.—Subcommittee Discussion.
3:45 p.m.—Revision of "A Rationale for the Life Sciences" Document.
4:30 p.m.—Discussion on the Universities Space Research Association.
5:15 p.m.—Adjourn.
Wednesday, April 17.
8:30 a.m.—New Initiative Presentation and Discussion.
10:45 a.m.—Subcommittee Strategy and Actions.
Noon—Adjourn.

Dated: March 27, 1991.

John W. Gaff,

Advisory Committee Management Officer, National Aeronautics and Space Administration.

[FR Doc. 91-7657 Filed 4-1-91; 8:45 am]

BILLING CODE 7510-01-M

NATIONAL SCIENCE FOUNDATION

Materials Submitted for OMB Review

In accordance with the Paperwork Reduction Act and OMB Guidelines, the National Science Foundation is posting this notice of information collection that will affect the public. Interested persons are invited to submit comments by April 30, 1991. Comments may be submitted to:

(1) *Agency Clearance Officer:* Herman G. Fleming, (202) 357-735. Written comments to: Division of Personnel and Management, National Science Foundation, 1800 G. St. NW., Washington, DC 20550 and to;

(2) *OMB Desk Officer:* Written comments to: Office of Information and Regulatory Affairs, Attn: Dan Chenok, Desk Officer, OMB 722 Jackson Place, room 3208, NEOB, Washington, DC 20503.

Title: Survey of Earned Doctorates in the United States.

Affected Public: Individuals.

Response/Burden Hours: 34,000 respondents, 20 minutes per response.

Abstract: Data collected from research doctorates when they earn their degree is used by five Federal agencies for program planning, program evaluation, policy, and data dissemination. These data are especially used to describe the participation of women, racial/ethnic minorities, and foreign citizens.

Dated: March 28, 1991.

Herman G. Fleming,

NFD Clearance Officer.

[FR Doc. 91-7665 Filed 4-1-91; 8:45 am]

BILLING CODE 7555-01-M

Amendment to Meeting; Cellular Neuroscience Advisory Panel et. al.

This notice announces changes to two advisory panel meetings:

—Advisory Panel for Cellular Neuroscience, April 10-12, 1991.

The time for the open session has been changed from April 11 (1 pm to 3 pm) to April 10 (1 pm to 3 pm.).

—Advisory Panel for Developmental Neuroscience, April 17-19, 1991.

This meeting will be held at the Georgetown Inn, 1310 Wisconsin Avenue, NW., Washington, DC rather than at the Georgetown Harbor Mews.

Both meeting announcements originally appeared in the March 27 **Federal Register.**

Dated: March 29, 1991.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 91-7666 Filed 4-1-91; 8:45 am]

BILLING CODE 7555-01-M

Advisory Committee for Chemistry; Meeting

In accordance with the Federal Advisory Committee Act, as amended, Public Law 463, the National Science Foundation announces the following meeting:

Name: Advisory Committee for Chemistry.

Date and Time: April 18, 1991; 8:30 am to 5 pm open, April 19, 1991; 8:30 am to 12 pm open, April 19, 1991; 12 pm to 2 pm closed, April 19, 1991; 2 pm to 3 pm open.

Place: Room 540, National Science Foundation, 1800 G Street, NW., Washington, DC 20550.

Type of Meeting: Part open.

Contact Person: Dr. Kenneth G. Hancock, Director, Division of Chemistry, National Science Foundation, Washington, DC 20550, telephone (202) 357-7947.

Summary Minutes: May be obtained from Dr. Kenneth G. Hancock.

Purpose of Committee: To provide advice and recommendations concerning NSF support for research in chemistry.

Agenda: Open: April 18, 1991—Discussion of the current status and future plans of the Chemistry Division's activities. Open: April 19, 1991 8:30 am-12 pm—Discussion of the current status and future plans of the Chemistry Division's activities. Closed: April 19, 1991 12 pm-2 pm—To review and evaluate research proposals. Open: April 19, 1991 2 pm-3 pm—Discussion with NSF Leadership.

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, and personal information concerning individuals associated with the proposals. These matters are within exemptions 4 and 6 of the Government in the Sunshine Act.

Dated: March 27, 1991.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 91-7669 Filed 4-1-91; 8:45 am]

BILLING CODE 7555-01-M

NUCLEAR REGULATORY COMMISSION

[Docket No. 50-245]

Northeast Nuclear Energy Co.; Environmental Assessment and Finding of No Significant Impact

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of schedular exemptions from the requirements of 10 CFR part 50, appendix J to the Northeast Nuclear Energy Company (the licensee) for Millstone Nuclear Power Station, Unit No. 1, located at the licensee's site in New London County, Connecticut.

Environmental Assessment

Identification of the Proposed Action

The proposed action would grant schedular exemptions from 10 CFR part 50, appendix J for the requirements of section III.D.2(a), Type B test, and section III.D.3, Type C test which specify that test intervals are not to exceed 2 years. The proposed action is in accordance with the licensee's request for exemption dated February 5, 1991 as

supplemented by letter dated March 22, 1991.

The Need for the Proposed Action

One of the conditions of all operating licenses for water-cooled power reactors, as specified in 10 CFR 50.54(o), is that primary reactor containments shall meet the containment leakage test requirements set forth in 10 CFR part 50, appendix J.

The licensee has proposed the requested exemptions because performing the Type B and C tests as required by appendix J could potentially require an early shutdown (should the refueling outage be delayed) or extend the refueling outage due to adverse impacts on critical path activities.

Environmental Impacts of the Proposed Action

The proposed exemptions would postpone the Type B and C tests approximately 2 months until the end of the 1991 refueling outage, or until June 30, 1990, whichever date is earlier. The NRC staff has reviewed the proposed exemptions and concluded the extension of the test period for the Type B and C tests will not meaningfully compromise containment integrity. This conclusion is based on the present refueling shutdown schedule. Since the previous Type B and C tests began on April 8, 1989, and the current outage is expected to begin on April 6, 1991, the major part of the extension will be utilized during the refueling outage when containment integrity is not required.

Thus, radiological releases will not differ from those determined previously and the proposed exemptions do not otherwise affect facility radiological effluent or occupational exposures. With regard to potential nonradiological impacts, the proposed exemptions do not affect plant nonradiological effluents and have no other environmental impact. Therefore, the Commission concludes there are no measurable radiological or nonradiological environmental impacts associated with the proposed exemptions.

Alternatives to the Proposed Action

Since the Commission has concluded there is no measurable environmental impact associated with the proposed exemptions, any alternatives with equal or greater environmental impact need not be evaluated. The principal alternative to the schedular exemptions would be to deny the exemptions requested. Such action would not enhance the protection of the environment and would result in unjustified costs for the licensee.

Alternative Use of Resources

This action does not involve the use of resources not considered previously in the Final Environmental Statement for Millstone, Unit 1.

Agencies and Persons Consulted

The NRC staff reviewed the licensee's request and did not consult other agencies or persons.

Finding of No Significant Impact

Based upon the environmental assessment, the Commission concludes that the proposed action will not have a significant effect on the quality of the human environment. Accordingly, the Commission has determined not to prepare an environmental impact statement for the proposed exemptions.

For further details with respect to this proposed action, see the licensee's letter dated February 5, 1991 and the supplement dated March 22, 1991. This letter is available for public inspection at the Commission's Public Document Room, The Gelman Building, 2120 L Street, NW., Washington, DC, and at the Learning Resources Center, Thames Valley State Technical College, 574 New London Turnpike, Norwich, Connecticut 06360.

Dated at Rockville, Maryland this 27th day of March 1991.

For the Nuclear Regulatory Commission.

Ronald W. Hernan,

Acting Director, Project Directorate I–4, Division of Reactor Projects—I/II, Office of Nuclear Reactor Regulation.

[FR Doc. 91–7699 Filed 4–1–91; 8:45 am]

BILLING CODE 7590–01–M

[Docket No. 50–395]

South Carolina Electric & Gas Co.; South Carolina Public Service Authority; Environmental Assessment and Finding of No Significant Impact

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an amendment to Facility Operating License No. NPF–12, issued to South Carolina Electric & Gas Company and South Carolina Public Service Authority (the licensee's), for operation of the V.C. Summer Nuclear Generating Station, Unit No. 1 (Summer Station), located in Fairfield County, South Carolina.

Environmental Assessment

Identification of Proposed Action

The proposed amendment would allow the licensee to leave steam generator tubes with minor axial cracks in service as long as the cracks were 0.7 inch or more below the top of the tubesheet. The proposed amendment is in accordance with the licensee's application dated August 1, 1988, as supplemented August 30, 1990.

The Need for the Proposed Action

The proposed change to the Technical Specifications (TS) is needed so that the generating capability of Summer Station is not reduced unnecessarily.

Environmental Impacts of the Proposed Action

The Commission has completed its evaluation of the proposed revision to the TS. The proposed revision would allow steam generator tubes with minor axial cracks to remain in service as long as the cracks were 0.7 inch or more below the top of the tubesheet. Currently, tubes with cracks within 1.6 inches of the top of the tubesheet must be plugged or sleeved. Based on its review, the Commission has concluded that this proposed change is acceptable. The staff has determined that the proposed change does not alter any initial conditions assumed for the design basis accidents previously evaluated nor change operation of safety systems used to mitigate the design basis accidents.

The proposed change does not increase the probability or consequences of accidents. No changes are being made in the types of any effluents that may be released offsite, and there is no significant increase in the allowable individual or cumulative occupational radiation exposure. Accordingly, the Commission concludes that the proposed action would result in no significant radiological environmental impact.

With regard to potential non-radiological impacts, the proposed change to the TS involves components in the plant that are located within the restricted areas as defined in 10 CFR part 20. It does not affect non-radiological plant effluents and has no other environmental impact. Therefore, the Commission concludes that there are no significant non-radiological environmental impacts associated with the proposed amendment.

Alternative to the Proposed Action

Since the Commission has concluded that there are no significant environmental effects that would result from the proposed action, any alternatives with equal or greater environmental impacts need not be evaluated.

The principal alternative would be to deny the requested amendment. This

would not reduce the environmental impacts of plant operation and would result in reduced operational flexibility.

Alternative Use of Resources

This action does not involve the use of any resources not previously considered in the Final Environmental Statements for the V.C. Summer Nuclear Generating Station, Unit No. 1, dated may 1981.

Agencies and Persons Consulted

The staff reviewed the licensee's request and did not consult other agencies or persons.

Finding of No Significant Impact

The Commission has determined not to prepare an environmental impact statement for the proposed license amendment.

Based upon the foregoing environmental assessment, we have concluded that the proposed action will not have a significant effect on the quality of the human environment.

For further details with respect to this action, see the application for amendment dated August 1, 1988, as supplemented August 30, 1990, which is available for public inspection at the Commission's Public Document Room, 2120 L Street, NW., Washington, DC and at the Fairfield County Library, Garden and Washington Streets, Winnsboro, South Carolina 29180.

Dated at Rockville, Maryland, this 26th day of March 1991.

For the Nuclear Regulatory Commission.

Elinor G. Adensam,

Director, Project Directorate II–1, Division of Reactor Projects—I/II, Office of Nuclear Reactor Regulation.

[FR Doc. 91–7700 Filed 4–1–91; 8:45 am]

BILLING CODE 7590–01–M

POSTAL SERVICE

Privacy Act of 1974; System of Records

AGENCY: Postal Service.

ACTION: Notice of proposed new routine use for existing system of records.

SUMMARY: The purpose of this document is to provide information for public comment concerning the Postal Service's proposal to add a new routine use to system USPS 050.020, Finance Records—Payroll System.

DATES: Any interested party may submit written comments regarding the proposed new routine use. Comments on this notice must be received on or before May 2, 1991.

ADDRESSES: Comments may be mailed to Records Office, US Postal Service, 475 L'Enfant Plaza SW., Rm 10670, Washington DC 20260–5010, or delivered to Room 8141 at the above address between 8:15 a.m. and 4:45 p.m. where they will be available for inspection during those hours.

FOR FURTHER INFORMATION CONTACT: Betty E. Sheriff, Records Office (202) 268–5158.

SUPPLEMENTARY INFORMATION: This notice complies with subsection (e)(11) of the Privacy Act which requires agencies to publish advance notice of any new use of information in a system. The Postal Service (USPS) is proposing a new routine use for system USPS 050.020, Finance Records—Payroll System, in connection with its plans to participate in a computer matching program with the Internal Revenue Service (IRS).

The matching program will compare postal employee and IRS delinquent taxpayer files to identify postal employees owing delinquent federal taxes and returns, and, if necessary, to levy their wages to collect the taxes. The matching program is being conducted for "tax administration" purposes, as that term is defined in section 6103(b)(4) of the Internal Revenue Code. Section 552a(a)(8)(B)(iv)(II) of the Privacy Act, as amended by Public Law 100–503 (The Computer Matching and Privacy Protection Act of 1988), excludes matching programs conducted for the purpose of "tax administration" from the computer matching provisions of the amended Privacy Act.

Under any full-fledged matching program, the USPS will make available on a routine basis limited information that will enable IRS to identify postal employees who are delinquent taxpayers. The program will be conducted first on a "test" basis to assess technical problems and effectiveness of the matching process, without collection actions against individuals identified. It is expected to develop into a full-fledged program after refinements are made.

Matching records and individuals' rights will be protected by provisions of the Internal Revenue Code and by written matching agreements between the IRS and USPS. The Internal Revenue Code generally prohibits (section 6103 of Title 26, United States Code) an officer or employee of the United States from disclosing return information for unauthorized purposes. If a full-fledged matching program is undertaken, section 6331 of the Code imposes upon IRS a requirement to give 30-day advance notice to an indebted person of its intent to make a levy upon that person's wages, salary, or property. Matching agreements will establish the procedures and conditions for the test match and for any full-fledged program, respectively. Specifically, the terms of the matching agreement will restrict use of the information to the specified purpose, will limit disclosure to the particular data elements required to accomplish the matching objectives, and will set forth administrative and technical safeguards that must be followed by both agencies to protect matching records.

The USPS believes that an integral part of the reason that employee payroll records are maintained is to protect the legitimate interests of the government and, therefore, such a routine use is compatible with the purpose for maintaining these records. System 050.020 last appeared in 54 FR 43667, dated October 26, 1989, amended at 55 FR 20554, dated May 17, 1990.

Accordingly, it is proposed to modify system USPS 050.020, Finance Records—Payroll System to add new routine use Number 27 as follows:

27. Disclosure of information about current or former postal employees may be made to the Internal Revenue Service under computer matching efforts, but limited only to those data elements considered relevant to identifying individuals who owe delinquent federal taxes or returns, and to collecting the unpaid taxes by levy on the salary of those individuals pursuant to Internal Revenue Code.

Stanley F. Mires,

Assistant General Counsel, Legislative Division.

[FR Doc. 91–7604 Filed 4–1–91; 8:45 am]

BILLING CODE 7710–12

SECURITIES AND EXCHANGE COMMISSION

[Investment Company Act Rel. No. 18064; 812–7672]

Fahnestock & Co. Inc., et al.; Application and Temporary Order

March 27, 1991.

AGENCY: Securities and Exchange Commission ("SEC" or "Commission")

ACTION: Temporary order and notice of application for permanent order of exemption under the Investment Company Act of 1940 ("1940 Act").

Applicants: Fahnestock & Co. Inc. ("Fahnestock") and Hudson Capital Advisors, Inc. ("Hudson").

Relevant 1940 Act Sections: Exemption from section 9(a) under section 9(c).

Summary of Application: Applicants have been granted a temporary order and have requested a permanent order exempting them from the provisions of section 9(a) to relieve them from any ineligibility resulting from the employment of an individual who is subject to an injunction against certain securities-related offenses.

Filing Date: The application was filed on January 17, 1991, and an amendment was filed on January 30, 1991.

Hearing or Notification of Hearing: An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving applicants with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on April 22, 1991, and should be accompanied by proof of service on the applicants, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 5th Street, NW., Washington, DC 20549. Applicants, 110 Wall Street, New York, New York 10005, Attn: Charles E. Padgett, Esq.

FOR FURTHER INFORMATION CONTACT: Robert B. Carroll, Staff Attorney, at (202) 272–3043, or Jeremy N. Rubenstein, Branch Chief, at (202) 272–3023 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee at the SEC's Public Reference Branch.

Applicants' Representation

1. Fahnestock, a Delaware corporation, is a registered broker-dealer. Hudson, a wholly-owned subsidiary of Fahnestock, is a registered investment adviser.

2. On September 4, 1990, The Fahnestock Funds, an open-end series investment company, filed with the Commission a notification of registration as an investment company and a registration statement for shares of Hudson Capital Appreciation Fund (the "Fund"), its first series (File No. 33–36697).[1] Fahnestock serves as the principal underwriter and Hudson serves as the investment adviser for the Fund.

3. Since 1987, Fahnestock has employed Jerome E. Treisman, an individual subject to a securities-related injunction. Treisman is employed as a registered representative, analyst, and money manager for Hudson.

4. On January 23, 1973, Treisman pled guilty in the United States District Court for the Southern District of New York to unlawfully hindering the making and keeping of required investment advisory materials on behalf of Tudor Hedge Fund ("Tudor") by, in 1970, preparing and assisting in the preparation of a research report which purported to be research information concerning Computerized Knitwear, Inc., a stock owned by Tudor, to create the appearance that the stock had been purchased by Tudor on the basis of investment merit. Treisman was fined $10,000.

5. In January 1981, the Commission filed suit in the United States District Court for the Southern District of New York seeking an injunction against Treisman based on the wrongdoing involved in the criminal action. Treisman consented to the entry of an injunction permanently enjoining him from violating sections 17(a) and 17(b) of the Securities Act of 1933, section 10(b) of the Securities Exchange Act of 1934 and rule 10b–5 thereunder, sections 206(1) and 206(2) of the Investment Advisers Act of 1940, and sections 17(d), 36, 36(a), and 37 of the 1940 Act. *SEC* v. *Everest Management Corp.*, 71 Civ. 4932 (S.D.N.Y. Jan. 29, 1981). In a related administrative proceeding, Treisman consented to be barred from associating with any broker, dealer, or investment adviser, provided that he could apply to the Commission at any time for relief from the bar to associate with a broker, dealer, or investment adviser in a non-proprietary, non-supervisory capacity.

6. On November 2, 1987, pursuant to rule 29 of the Commission's Rules of Practice (17 CFR 201.29), the Commission granted Treisman's application to become associated with Edward A. Viner & Co. ("Viner"), as an analyst and money manager for Hudson, in a non-proprietary, non-supervisory capacity. At the time, Hudson was a subsidiary of Viner. In 1988, Viner merged with Fahnestock. On February 28, 1990, the Commission consented to permit Treisman to associate with Fahnestock as a registered representative in a non-proprietary, non-supervisory capacity. Treisman fully informed Viner and Fahnestock of the circumstances relating to the injunction prior to his employment.

7. Since the time of the activities giving rise to the injunction, Treisman has not been the subject of any civil, criminal, administrative, or disciplinary proceedings and, to the best of applicants' knowledge, there have been no customer complaints against him.

8. Applicants represented in the application that Treisman would be placed on leave of absence without pay as of the effective date of the Fund's registration statement. By letter dated March 18, 1991, applicants informed the staff of the Division of Investment Management that Treisman was placed on leave of absence on March 8, 1991 and that the Fund did not begin selling its shares until March 15, 1991. If temporary relief is granted, applicants will permit Treisman to return to work on a normal basis pending a determination as to permanent relief.

Applicants' Legal Analysis

1. Section 9(a)(2) of the 1940 Act prohibits, among other things, any person who has been enjoined from engaging in any practice in connection with the purchase or sale of a security from acting as an "employee, officer, director, member of an advisory board, investment adviser, or depositor of any registered investment company, or principal underwriter for any registered open-end company, registered unit investment trust, or registered face amount certificate company." A company with an employee or other "affiliated person" ineligible to serve in any of these capacities under section 9(a)(2) is similarly disqualified by section 9(a)(3) from serving in any such capacity, unless it obtains an exemption under section 9(c).

2. Because Treisman is an affiliated person of applicants, applicants are disqualified by section 9(a)(3). Applicants assert that the prohibitions of section 9(a) are unduly or disproportionately severe as applied to them and that it would not be against the public interest or the protection of investors to grant the requested relief. The requested relief is appropriate because (a) the responsibilities of Treisman will not be related directly to the provision of investment advisory services to any registered investment company or to acting as principal underwriter for any open-end registered investment company; [2] and (b) the

[1] The Fund's registration statement was declared effective on March 5, 1991.

[2] Although Treisman's work as a research analyst and money manager may involve the provision of investment advice, these services will not be provided to any investment company.

activities giving rise to the injunction occurred more than 20 years ago and Treisman has not been the subject of any civil, criminal, administrative, or disciplinary proceedings other than those described in this notice. In regard to the request for temporary relief, applicants submit that it would enable them to (a) employ Treisman until the disposition of the request for permanent relief, thereby minimizing Treisman's loss of income, and (b) provide service to clients of applicants who utilize Treisman's services.

Conditions to the Relief

1. As a condition to the temporary relief, Hudson will escrow all investment advisory fees earned pursuant to advisory contracts with the Fund or any other registered investment company until the Commission acts on applicants' request for a permanent exemption. Amounts paid into the escrow account will be disbursed to the investment companies paying such fees or to Hudson, as the case may be, after the Commission has acted on applicants' request for permanent relief.

2. As a condition to any temporary or permanent relief, applicants will not employ Treisman in any capacity related directly to the provision of investment advisory services or to acting as a depositor for a registered investment company or as a principal underwriter for a registered open-end investment company, registered unit investment trust, or registered face amount certificate company without first making further application to the Commission.

Temporary Order

The Division of Investment Management, pursuant to delegated authority, has considered the matter and finds, under section 9(c) of the 1940 Act, that the conduct of applicants has been such as not to make it against the public interest or protection of investors to grant a temporary exemption. Accordingly,

It is Ordered, under section 9(c) of the 1940 Act, that Fahnestock & Co. Inc. and Hudson Capital Advisors, Inc. are hereby temporarily exempted from the provisions of section 9(a) of the 1940 Act for the shorter of 90 days or until final action is taken on the application for an order for a permanent exemption from the provisions of section 9(a).

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 91-7622 Filed 4-1-91; 8:45 am]

BILLING CODE 8010-01-M

[Rel. No. IC-18067; 812-7576]

Kemper Securities Group, Inc.; Application and Temporary Order

March 27, 1991.

AGENCY: Securities and Exchange Commission ("SEC" or "Commission").

ACTION: Temporary order and notice of application for permanent order of exemption under the Investment Company Act of 1940 (the "Act").

APPLICANT: Kemper Securities Group, Inc. ("Kemper" or "Applicant").

RELEVANT 1940 ACT SECTIONS: Permanent order requested, and temporary order granted, under section 9(c) of the Act, from section 9(a) of the Act.

SUMMARY OF APPLICATION: Kemper has been granted a temporary order, and has requested a permanent order, exempting it from the provisions of section 9(a) to relieve the company from any ineligibility resulting from the employment of two individuals who are subject to injunctions resulting from SEC actions.

FILING DATE: The application was filed on August 10, 1990 and amended on October 22, 1990 and February 14, 1991.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving applicant with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on April 25, 1991, and should be accompanied by proof of service on the applicant, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 5th Street, NW., Washington, DC 20549. Applicant, c/o Meyer Eisenberg, Esq, Ballard, Spahr, Andrews & Ingersoll, suite 900 East, 555 13th Street, NW., Washington, DC 20004.

FOR FURTHER INFORMATION CONTACT: Barry Mendelson, Staff Attorney, at (202) 504-2284, Thomas G. Sheehan, Staff Attorney, at (202) 272-7324, or Stephanie M. Monaco, Branch Chief, at (202) 272-3030 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee at the SEC's Public Reference Branch

Applicant's Representations

1. Kemper is a Delaware corporation and the successor in interest to Prescott, Ball & Turben ("Prescott"), a registered broker-dealer and registered investment adviser. Effective September 1, 1990, Prescott and four other regional broker-dealers—Boettcher & Company, Inc., Blunt Ellis & Loewi, Inc., Bateman Eichler, Hill Richards, Inc., and Lovett Underwood Neuhaus & Webb, Inc.—were merged into, and became unincorporated divisions of, Kemper. Although the application was originally filed by Prescott, the amendments to the application were filed by, and seek relief on behalf of, Kemper.

2. Before the section 1, 1990 restructuring, Prescott served as the principal underwriter for the Selected Funds, a family of open-end management investment companies with aggregate assets of approximately $1.3 billion. The Prescott division of Kemper continues to act as principal underwriter for the Selected Funds, which consist of the following registered open-end investment companies and portfolios thereof: Selected American Shares, Inc.; Selected Special Shares, Inc.; and Selected Capital Preservation Trust, the portfolios of which are Selected Daily Income Fund, Selected Daily Government Fund, Selected Daily Tax-Exempt Fund, and Selected U.S. Government Income Fund. Prescott also has served as co-depositor and principal underwriter for a number of unit investment trusts. The Prescott division of Kemper anticipates serving as co-depositor and principal underwriter for other unit investment trusts that may be organized in the future.

3. Although Prescott was a registered investment adviser, it did not derive any income from investment advisory clients, including registered investment companies, from the date it initially filed its application through the effective date of the Kemper restructuring. The Prescott division of Kemper likewise does not receive any fees for such services.

4. Applicant currently employs two individuals subject to securities-related injunctions: J. Christopher Rodeno and

Elmer I. Paull (together the "Subject Employees").

5. J. Christopher Rodeno has been a registered representative of Prescott or Kemper since July 8, 1975. He has been employed in that capacity at Prescott's Branch office in Chagrin Falls, Ohio since February, 1983. Rodeno was a General Partner of Prescott from March 5, 1981 to October 13, 1982 (the date Prescott ceased being a partnership).

6. In July 1989, Rodeno consented to the entry of a permanent injunction in connection with a suit brought by the SEC alleging that in March 1986, while in possession of material non-public information concerning a leveraged buyout of Revco D.S. Inc., Rodeno purchased 20 call option contracts for his own account, in violation of section 10(b) of the Securities Exchange Act of 1934 (the "1934 Act") and rule 10b–5 thereunder. The injunction permanently enjoined Rodeno from future violations of these provisions. Rodeno also consented to a civil penalty of $4,950.

7. In August 1989, the SEC instituted a separate administrative proceeding against Rodeno under section 15(b)(6) of the 1934 Act, based on the same conduct. Rodeno consented to an order suspending him from association with any broker, dealer, municipal securities dealer, investment company, or investment adviser for a period of six months, commencing on August 14, 1989. On July 3, 1990, the New York Stock Exchange ("NYSE"), under rule 19h–1 of the 1934 Act, approved Rodeno's continuance as a registered representative in Prescott's Chagrin Falls, Ohio branch office.

8. As a result of the Commission's civil and administrative actions, two states, Illinois and Ohio, instituted proceedings against Rodeno. In January 1990, Rodeno entered into a consent order with the Securities Department of the Illinois Secretary of State retroactively suspending his Illinois salesman's license for a period concurrent with the Commission's suspension. Also in January 1990, the Division of Securities of the Ohio Department of Commerce notified Rodeno that it intended to revoke his Ohio salesman's license as a result of the orders issued in the Commission's civil and administrative proceedings. Rodeno's Ohio salesman's license was revoked on March 5, 1990. On April 2, 1990, Rodeno reapplied for an Ohio salesman's license. After conducting a hearing, the Ohio Division of Securities issued an order on May 22, 1990 finding Rodeno to be of good business repute, and granted him a new Ohio salesman's license.

9. Elmer I. Paull became employed as a registered representative at Prescott's main office in Cleveland, Ohio in January 1978, when Prescott acquired his former employer. He has continued to work in the Cleveland office since that time. From January 1978 until March 1988, Paull also served as the branch manager of Prescott's retail sales office in Cleveland. From March 1988 until November 1989, Paull served as Prescott's director of marketing. While serving as director of marketing, Paull's activities related primarily to marketing the full range of Prescott's services and brokerage products, including the Selected Funds and the Ohio tax-exempt bond trusts. Beginning in approximately January 1990, Paull assisted in the coordination of certain marketing activities relating to the Selected Funds on behalf of Prescott. His involvement was limited to organizing meetings and other sales-related activities. He had no supervisory authority or responsibilities in connection with these activities.

10. In January 1978, Paull consented to the entry of a permanent injunction in a suit filed by the SEC alleging that he had sold unregistered securities in violation of section 5 of the Securities Act of 1933 (the "1933 Act"). The injunction arose out of the sale in the fall of 1973 of limited partnership interests in two purportedly non-public offerings.

11. Subsequent to the entry of the permanent injunction, the Commission initiated an administrative proceeding against Paull pursuant to section 15(b) of the 1934 Act, involving the same unregistered securities transactions. On January 30, 1978, Paull consented to the entry of an order suspending him from associating with any broker-dealer for a period of fifteen business days. That order also prohibits Paull from engaging in supervisory activities in connection with the underwriting of securities, although he is permitted to supervise registered representatives engaged in the sale of securities.

12. Applicant represents that following entry of the consent injunction, Paull devoted considerable time and money in an effort to secure redress for the investors, including the institution of a malpractice action against the law firm involved that resulted in a significant recovery for investors.

13. On April 6, 1978, the New York Stock Exchange ("NYSE") approved Paull's association with Prescott, effective January 27, 1978. At the time of this approval, however, the NYSE had not been informed of the injunction and suspension described in paragraphs 10 and 11. When these matters came to the attention of the NYSE in 1981, it notified Prescott that Paull was subject to a statutory disqualification. On September 15, 1981, Prescott submitted a request for approval of Paull's continued employment to the NYSE under rule 19h–1 of the 1934 Act. The NYSE granted such approval on December 1, 1981.

14. The existence of the injunctions against the Subject Employees disables Applicant, under section 9(a)(3) of the Act, from acting as an investment adviser to a registered investment company, as a principal underwriter of a registered open-end investment company, or as a principal underwriter or depositor of a registered unit investment trust, unless an exemption is obtained under section 9(c).

15. Although Prescott knew of the existence of the injunctions against the Subject Employees when they were entered, Applicant claims not to have become aware of their significance under section 9(a) until July 18, 1990, when so advised by a staff member of the Division of Investment Management. Prior to filing this application, Prescott did not have in place procedures to screen specifically for section 9(a) disqualifications.

16. Except for the matters discussed in paragraphs 6–8 and 10–11 above, neither of the Subject Employees has been subject to any injunctions, suspensions, or other disciplinary actions. With the exception of two customer complaints filed against Paull (see ¶ 17 below), no customer complaints have been filed against the Subject Employees during their employment with Prescott and Kemper. Senior members of Applicant's Compliance Department have reviewed the Subject Employees' records during the tenure of their employment with Prescott and Kemper, and believe them to be satisfactory.

17. There have been two customer complaints against Paull while employed by Prescott. The first, in August, 1986, involved a customer who had purchased certain securities and expected to receive a fixed rate of income on the investment. When the monthly income checks were for less than the rate expected, she complained to Prescott, the issuer, and the National Association of Securities Dealers ("NASD"). Prescott investigated the matter and determined that there was no wrongdoing on the part of Paull. The NASD likewise concluded that no action was warranted against either Prescott or Paull in connection with the customer's complaint.

18. The second customer complaint against Paull, initiated in April 1990, involved a customer who complained

that Paull and Prescott's research department failed to anticipate the poor performance of securities that they had previously recommended, and that Prescott's persistent and consistent recommendation of such securities as a sound investment had misled him. Prescott's compliance department completed an investigation of the complaint and found no evidence of wrongdoing. The customer was informed, in a letter dated June 21, 1990, that Prescott's compliance department considered the matter closed. The customer responded in a letter dated June 29, 1990 that he disagreed with the compliance department's conclusion, and reiterated his demand to be made whole. To date, however, the customer has not taken any additional action to pursue his claim.

19. Neither Subject Employee is employed by any affiliate of Applicant other than the Prescott division of Kemper. Neither Subject Employee has served or currently serves in a capacity related in any way to providing investment advice to any registered investment company or acting as principal underwriter to any registered open-end company or as principal underwriter or depositor to any registered unit investment trust. Neither Subject Employee has served or acted in the capacity of officer, director, advisory board member, investment adviser, depositor, or principal underwriter of any registered investment company, or any affiliate of a registered investment company. Although each Subject Employee has the title of Senior Vice President, as is customary throughout the industry, neither has functioned or will function as an officer of Prescott or Kemper, and neither has served or will serve in a policy-making role. Neither Subject Employee has had or will have any involvement in management or administrative activities relating to registered investment companies.

20. The conduct that precipitated the injunctive actions against the Subject Employees was unrelated to providing investment advice or acting as depositor or underwriter for any registered investment company.

21. Rodeno was employed by Prescott when the consent injunction was entered against him, and Prescott was fully aware of the proceedings against Rodeno and of his consent to the injunction. Paull fully disclosed the existence of his injunction prior to becoming employed by Prescott. Prescott and each of the Subject Employees took the necessary steps to obtain the approval of their principal self-regulatory organization for the association of these employees with the firm.

22. Pending disposition of its request for temporary relief under section 9(c), Prescott on July 27, 1990 required each of the Subject Employees to take an indefinite leave of absence with pay. If temporary relief is granted, Applicant will permit each Subject Employee to return to work on a normal basis pending the Commission's determination as to permanent relief.

23. Applicant has amended its employment and hiring procedures to provide that prospective employees subject to a statutory disqualification under section 9(a) are not employed by Kemper or any Kemper affiliate involved in registered investment company activities as a principal underwriter, depositor or investment adviser until all section 9(c) issues are resolved. These procedures include screening prospective employees for any statutory disqualification and seeking SEC approval if grounds for disqualification are found. In addition, as part of its regular annual internal reviews of employees, Applicant will specifically screen for information that would cause disqualification, and will remind all employees of their responsibilities to inform Applicant's compliance department of any event which would cause disqualification.

24. Upon recognizing the significance of the injunctions under section 9(a), and after discussions with the SEC staff, Applicant on September 11, 1990 established an escrow account into which it has deposited, retroactive to July 1, 1990, all fees received in connection with its principal underwriting activities, i.e., rule 12b–1 fees received by Prescott (from July 1, 1990 to August 31, 1990) and the Prescott division of Kemper (on or after September 1, 1990) in connection with the distribution of the Selected Funds. Since July 1, 1990, neither Prescott nor the Prescott division of Kemper has engaged in principal underwriting activities on behalf of, or received any principal underwriting fees or commissions from, any registered unit investment trusts.

Applicant's Legal Analysis

1 Each of the Subject Employees is ineligible to serve or act as an investment adviser, principal underwriter or depositor for a registered investment company. Each of these individuals is an employee, and thus an "affiliated person," of Applicant. Applicant is therefore ineligible under section 9(a)(3) of the Act to serve or act in the capacities enumerated unless it obtains an exemption under section 9(c).

2. Section 9(c) permits the SEC to grant an exemption from the prohibitions of section 9(a) to any person if it is established that those prohibitions, as applied to such person, are unduly or disproportionately severe or that the conduct of such person has been such as not to make it against the public interest or protection of investors to grant the exemption.

3. A denial of the application would require Applicant to cease providing services to various investment companies or else discharge the Subject Employees. Applicant asserts that both of these options are unduly and disproportionately severe and neither is necessary for the protection of investors in the investment companies served by the Applicant. Moreover, Applicant contends that such a result would be manifestly unfair since each of the Subject Employees has fulfilled the terms of his sanction, has been authorized by the NYSE to reassociate with Applicant as a registered representative, and has performed his duties satisfactorily over the years.

4. Applicant submits that the activities that gave rise to the injunctions are not sufficiently related to Applicant or to the investment companies for which Applicant acts as investment adviser, principal underwriter, or depositor to justify disqualifying Applicant from serving in those capacities. Applicant further submits that there is no basis to assert that the employment of the Subject Employees has affected or may affect Applicant's performance of its responsibilities to any registered investment company.

5. Applicant states that because the activities that gave rise to the injunctions against Paull are remote in time, and because there has been no subsequent wrongdoing on the part of the Subject Employees, it would be unduly or disproportionately severe to permit the injunctions to interrupt the investment advisory, underwriting, and depositor services that have been made available to the investment companies that the Applicant serves, and to deprive Applicant of the substantial revenues it derives from providing such services.

Conditions to the Requested Relief

1. As a condition to the temporary relief, Applicant will continue to deposit into the escrow account all fees and commissions received in connection with its principal underwriting activities on behalf of the Selected Funds, i.e., rule 12b–1 fees received by the Prescott

division of Kemper for distributing the Selected Funds. Such fees and commissions will be placed in escrow until the SEC acts on Applicant's request for a permanent exemption. Amounts paid into the escrow account will be disbursed to the Selected Funds or to Applicant after the SEC has acted on this application and after discussions with the boards of directors of the investment companies involved.

2. As a condition to the permanent relief, Applicant will not employ any of the Subject Employees in any capacity related directly to providing investment advice for, or acting as a depositor of, any registered investment company, or to acting as a principal underwriter for a registered open-end company, a registered unit investment trust, or a registered face-amount certificate company, without first making further application to the SEC.

3. Applicant will take appropriate steps to confirm that there are no other employees subject to a statutory disqualification under section 9(a) of the Act. These steps may include reviewing the personnel files of other employees, requesting employees to confirm that they are not subject to a statutory disqualification, or utilizing some other combination of procedures that may vary depending on the level and type of employee. A permanent order will not be granted until Applicant has notified the SEC in writing that these steps have been completed.

4. As a condition to the permanent relief, Applicant will file as an exhibit to this application a representation, attested to by its Chief Executive Officer, stating that he has reviewed the compliance procedures described in the application, that after due inquiry he believes those procedures have been fully implemented, and that those procedures are reasonable and appropriate to prevent persons subject to a statutory disqualification from becoming or remaining affiliated with Applicant in the future.

Temporary Order

The Commission has considered the matter and finds, under the standards of section 9(c), that Applicant has made the necessary showing to justify granting a temporary exemption.

Our decision to grant the requested relief is based primarily on two factors. First, the individuals creating the statutory disqualification have not been, and (without further Commission action) will not be, engaged in investment advisory or investment company activities. Second, Applicant has represented that it has corrected the deficiencies in its compliance procedures that allowed these violations of section 9(a) to occur. It is also relevant to our determination that each of the Subject Employees fully disclosed the existence of the injunctions to Prescott on a timely basis, and was authorized by action of the New York Stock Exchange to associate with Prescott as a registered representative. The Commission's decision to allow Applicant to continue to employ these individuals in non-investment adviser, non-investment company activities is thus consistent with the actions of the self-regulatory organization.

We must nevertheless express our concern with Prescott's compliance system, which allowed violations of section 9(a) to go undetected for an extended time period. In recent months, the Commission has become aware of a number of companies that have violated section 9(a)(3) of the Act under circumstances similar to this case. See Smith Barney, Harris, Upham & Co., Inc., Investment Company Act Release Nos. 17404 and 17404A (April 2 and April 11, 1990) (notice and temporary order), 17501 (May 21, 1990) (permanent order); PaineWebber Inc., Investment Company Act Release Nos. 17588 (July 16, 1990) (notice and temporary order), 17789 (October 10, 1990) (permanent order); Dean Witter Reynolds Inc., Investment Company Act Release No. 17887 (November 29, 1990) (notice and temporary order); Prudential Securities Incorporated, Investment Company Act Release No. 18031 (March 6, 1991) (notice and temporary order). We view such violations with concern because they evidence deficiencies in a company's compliance system which have resulted in the employment of disqualified employees for extended periods without discovery. Moreover, we are troubled by the fact that despite the publication of Commission notices and/or orders in connection with two of the applications for section 9(c) relief cited above, Prescott did not become aware of its disability under section 9(a) until contacted by a Commission staff member. Our decision to grant relief in this case should not be read as an indication that the Commission views violations of section 9(a) as unimportant, or that we would regard any repeat of this problem by Applicant with anything other than serious concern.

The relief granted by this order is conditioned on, among other things, the accrual in an escrow account, retroactive to July 1, 1990, of all fees and commissions received by Prescott (before September 1, 1990) and by the Prescott division of Kemper (on or after September 1, 1990) in connection with its principal underwriting activities on behalf of the Selected Funds. This raises two issues that require further explanation. First, the July 1, 1990 date has been selected because the Commission has concluded that by this date members of the investment management community, exercising reasonable diligence, should have discovered the existence of any section 9(a) ineligibility caused by the ongoing employment of disqualified individuals. Our conclusion in this regard is supported by the fact that the Commission on April and May of 1990 granted temporary and permanent section 9(c) relief to another applicant in virtually identical circumstances. Smith Barney, Harris Upham & Co., Investment Company Act Release Nos. 17404A (April 11, 1990) (notice and temporary order) and 17501 (May 21, 1990) (permanent order).[1]

The second issue relates to restricting the escrow to principal underwriting fees and commissions payable to the Prescott division of Kemper for the period after September 1, 1990, rather than extending it to all investment advisory fees and commissions payable to Kemper. After due consideration, the Commission has concluded that to extend the escrow to all investment advisory fees and commissions earned by Kemper would, under the circumstances, be unduly harsh. Our conclusion is based primarily on the fact that Kemper "inherited" Prescott's ineligibility and was not culpable for Prescott's violation of section 9(a). Moreover, each of the subject employees was placed on leave with pay prior to the September 1, 1990 merger. They consequently have performed no work as employees of Kemper.

Accordingly, *it is ordered*, under section 9(c) of the 1940 Act, that Applicant is hereby temporarily exempted from the provisions of section 9(a) for the shorter of 90 days or until the Commission takes final action on the application for an order granting Applicant a permanent exemption from the provisions of section 9(a).

[1] The Commission does not intend by this statement to sanction in any way this or any other applicant's failure to detect section 9(a) disqualifications at the time they occur, and to seek appropriate relief from the Commission in an expeditious manner. Our point in this instance is that even a firm that had failed because of inadequacies in its compliance procedures to detect section 9(a) disqualifications at their inception should have been aware of the Smith Barney order, and should have taken appropriate actions to discover and remedy ongoing violations caused by the employment of disqualified individuals, before July 1, 1990.

By the Commission.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 91-7708 Filed 4-1-91; 8:45 am]

BILLING CODE 8010-01-M

[Rel. No. IC-18065; 812-7602]

Oppenheimer & Co., Inc.; Application

March 27, 1991.

AGENCY: Securities and Exchange Commission ("SEC" or "Commission").

ACTION: Notice of Application for Exemption under the Investment Company Act of 1940 ("Act").

Applicant: Oppenheimer & Co., Inc. ("Oppenheimer").

Relevant 1940 Act Sections: Order requested under section 9(c) of the Act exempting Oppenheimer from section 9(a) of the Act.

Summary of Application: Oppenheimer requests an order exempting it from the provisions of section 9(a) so that it may employ Jerome C. Soskin ("Soskin"), who is subject to a securities-related injunction.

Filing Date: The application was filed on October 1, 1990, amended on January 14, 1991, and supplemented by letters from applicant's counsel dated February 15, 1991 and March 5, 1991.

Hearing or Notification of Hearing: An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving Oppenheimer with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on April 18, 1991, and should be accompanied by proof of service on Oppenheimer, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 5th Street, NW., Washington, DC 20549; Oppenheimer & Co., Inc., Oppenheimer Tower, World Financial Center, New York, New York 10281.

FOR FURTHER INFORMATION CONTACT: Kimberly Warren, Attorney, at (202) 272-3026, or Max Berueffy, Branch Chief, at (202) 272-3016 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: Following is a summary of the application. The complete application may be obtained for a fee at the SEC's Public Reference Branch.

Applicant's Representations

1. Oppenheimer, a Delaware corporation, is a registered broker-dealer and registered investment adviser with eight domestic and two foreign offices. Oppenheimer Holdings, Inc., a Delaware holding company, owns all of the issued and outstanding capital stock of Oppenheimer. Oppenheimer & Co., L.P. is the ultimate parent of Oppenheimer. Quest for Value Advisors ("Advisors") and Quest for Value Distributors are affiliates of Oppenheimer that serve as investment adviser and principal underwriter respectively, to registered investment companies.

2. Oppenheimer does not currently, but may in the future, serve as principal underwriter of registered open-end investment companies. Oppenheimer serves as sub-adviser to the U.S. Government High Income Trust ("Government Trust"), a series of the Quest for Value Investment Trust, a registered investment company. Pursuant to a contract between Oppenheimer and Advisors, Oppenheimer provides non-discretionary investment advice to Government Trust. Oppenheimer does not serve as investment adviser or sub-adviser for any other investment company. Oppenheimer has not in the past sponsored, or acted as a depositor with respect to, any unit investment trusts. Oppenheimer does not currently anticipate sponsoring any unit investment trusts which may be organized in the future.

3. Oppenheimer is not currently disqualified from acting in any of the capacities specified in section 9(a) of the Act. However, subject to the granting of the relief requested by this application, Oppenheimer proposes to employ Soskin as a registered representative in its Fort Lauderdale, Florida, branch office. As discussed below, Soskin is disqualified from acting in the capacities specified in section 9(a) of the Act. After becoming employed by Oppenheimer, Soskin would become an affiliated person of Oppenheimer, and would cause it to become similarly disqualified by virtue of section 9(a)(3) of the Act. Accordingly, Oppenheimer seeks the relief requested so that it may hire Soskin without becoming disqualified from acting in any of the capacities specified in section 9(a) of the Act.

4. In 1974, the Commission brought a civil injunctive action alleging, among other things, that while employed at Paragon Securities Co., Soskin engaged in various high-pressure sales techniques including using false and misleading advertisements concerning Paragon's line of business, the yields and other characteristics of bonds, and making untrue statements of material facts in connection with offers to purchase or sell securities. On October 3, 1974, Soskin consented to the entry of a permanent injunction against future violations of section 17(a) of the Securities Act of 1933 ("1933 Act") and various sections of the Securities Exchange Act of 1934 ("Exchange Act") arising out of the alleged stock fraud.

5. Since the entry of the injunction, Soskin has not been enjoined by any court, or sanctioned by the Commission, any self-regulatory organization, or any state securities commission. Oppenheimer has been advised by Smith Barney, Harris Upham Inc. ("Smith Barney"), Soskin's former employer, that, except as set forth below, there were no customer complaints relating to Soskin while he was employed at Smith Barney.

6. Oppenheimer has been advised that, at the time Soskin resigned his position at Smith Barney, there was an allegation that Soskin had placed 300 shares of stock in a customer's account prior to obtaining the customer's approval. When the matter was brought to the attention of the customer he ratified the transaction.

7. The New York Stock Exchange ("NYSE") has completed an investigation of the circumstances surrounding the allegation that Soskin placed an unauthorized trade, as described in the preceding paragraph, and has issued a letter of admonition against Soskin dated February 12, 1991. The NYSE did not otherwise sanction Soskin.

Applicant's Legal Analysis

1. Soskin is ineligible to serve or act as an investment adviser to or a depositor of a registered investment company, or as a principal underwriter of any registered open-end company, a registered unit investment trust or registered face-amount certificate company. If Oppenheimer employs Soskin, he would become an "affiliated person," of Oppenheimer. Oppenheimer would then be a company any affiliated person of which is ineligible, by reason of section 9(a)(2) of the Act, to serve or act in the capacities enumerated. Oppenheimer would therefore be ineligible under section 9(a)(3) of the Act to serve or act in those capacities unless it obtains an exemption under section 9(c) of the Act.

2. Oppenheimer asserts that neither Oppenheimer, nor any affiliated person,

were subjects of, or involved in any activity alleged in, the complaint or the injunction. Accordingly, the prohibitions of section 9(a) of the Act would apply to Oppenheimer only if it were to employ Soskin prior to obtaining the relief requested by the application.

3. Oppenheimer also submits that Soskin would not be involved with or responsible for Oppenheimer's investment company activities as a registered representative in its Fort Lauderdale, Florida, branch office.

4. Oppenheimer argues that the allegations in the Commission's complaint against Soskin and the terms of the injunction and the circumstances to which they relate do not involve any investment company activities.

5. Except for the NYSE's admonition letter against Soskin referred to in paragraph 7 above, Oppenheimer states that since the injunction was entered over 15 years ago, Soskin has not been subject to any similar actions, or sanctioned by the Commission, any self-regulatory organization, or any state securities commission, nor are there any customer complaints, lawsuits or regulatory actions pending against Soskin.

6. Oppenheimer claims that the prohibitions of section 9(a) of the Act deprive Soskin of the opportunity to serve as an employee of any company that serves as an investment adviser, principal underwriter or depositor of investment companies, in circumstances in which he would have nothing to do with the investment company operations. Oppenheimer further claims that such a result would be manifestly unfair since Soskin has fulfilled the terms of his sanction and has committed no additional wrongdoing since 1974.

7. Oppenheimer argues that the prohibitions of section 9(a) of the Act would be unduly and disproportionately unfair as applied to Oppenheimer because they would deprive Oppenheimer of Soskin's services in an area totally unrelated to the activities of an investment company.

8. Oppenheimer acknowledges. understands, and agrees that the Commission's issuance of the order requested by its application shall not prejudice nor limit the Commission's rights in any manner with respect to any investigation, enforcement action, or proceeding under section 9(b) of the Act, based, in whole or in part, upon conduct other than that giving rise to the application.

Condition to the Requested Relief

As a condition of the requested relief, neither Oppenheimer nor any affiliated person of Oppenheimer relying upon the relief granted pursuant to this application will employ Soskin in any capacity related directly to providing investment advice to, or acting as depositor of, any registered investment company, or acting as a principal underwriter for a registered open-end company, a registered unit investment trust or registered face-amount certificate company without first making further application to the Commission.

For the Commission, by the Division of Investment Management, under delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 91-7623 Filed 4-1-91; 8:45 am]

BILLING CODE 8010-01-M

SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster Loan Area No. 2485]

Alabama; Declaration of Disaster Loan Area

Colbert County and the contiguous counties of Franklin, Lauderdale, and Lawrence in the State of Alabama constitute a disaster area as a result of damages caused by flooding beginning on or about February 18 and continuing until approximately March 3, 1991. Applications for loans for physical damage as a result of this disaster may be filed until the close of business on May 23, 1991 and for economic injury until the close of business on December 23, 1991, at the address listed below: U.S. Small Business Administration, Disaster Area 2 Office, One Baltimore Place, suite 300, Atlanta, Georgia 30308, or other locally announced locations.

The interest rates are:

	Percent
Homeowners With Credit Available Elsewhere	8.000
Homeowners Without Credit Available Elsewhere	4.000
Businesses With Credit Available Elsewhere	8 000
Businesses and Non-Profit Organizations Without Credit Available Elsewhere	4.000
Others (Including Non-Profit Organizations) With Credit Available Elsewhere	9 125
For Economic Injury	
Businesses and Small Agricultural Cooperatives Without Credit Available Elsewhere	4.000

The number assigned to this disaster for physical damage is 248506 and for economic injury the number is 727200.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

Dated: March 22, 1991.

June M. Nichols,

Acting Administrator.

[FR Doc. 91-7704 Filed 4-1-91; 8:45 am]

BILLING CODE 8025-01-M

[Declaration of Disaster Loan Area No. 2484]

Georgia; With Contiguous Counties in Florida; Declaration of Disaster Loan Area

As a result of the President's major disaster declaration on March 15, 1991, I find that the Counties of Appling, Atkinson, Bacon, Berrien, Brooks, Coffee, Johnson, Lanier, Laurens, Lowndes, Pierce, and Thomas in the State of Georgia constitute a disaster area as a result of damages caused by severe storms and flooding beginning on March 1, 1991 and continuing. Applications for loans for physical damage may be filed until the close of business on May 14, 1991, and for loans for economic injury until the close of business on December 16, 1991, at the address listed below: U.S. Small Business Administration, Disaster Area 2 Office, One Baltimore Place, suite 300, Atlanta, Georgia 30308; or other locally announced locations. In addition, applications for economic injury loans from small businesses located in the contiguous counties of Ben Hill, Bleckley, Brantley, Clinch, Colquitt, Cook, Dodge, Echols, Emanuel, Grady, Irwin, Jeff Davis, Jefferson, Mitchell, Tattnall, Telfair, Tift, Toombs, Treutlen, Twiggs, Ware, Washington, Wayne, Wheeler, and Wilkinson in the State of Georgia and Hamilton, Jefferson, Leon, and Madison Counties in the State of Florida may be filed until the specified date at the above location.

The interest rates are:

	Percent
For Physical Damage:	
Homeowners With Credit Available Elsewhere	8.000
Homeowners Without Credit Available Elsewhere	4.000
Businesses With Credit Available Elsewhere	8.000
Businesses and Non-Profit Organizations Without Credit Available Elsewhere	4.000
Others (Including Non-Profit Organizations) With Credit Available Elsewhere	9.125
For Economic Injury:	
Businesses and Small Agricultural Cooperatives Without Credit Available Elsewhere	4.000

The number assigned to this disaster for physical damage is 248406 and for

economic injury the numbers are 727000 for the State and 727100 for the State of Florida.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

Dated: March 21, 1991.

Alfred E. Judd,

Acting Assistant Administrator for Disaster Assistance.

[FR Doc. 91-7705 Filed 4-1-91; 8:45 am]

BILLING CODE 8025-01-M

[Declaration of Disaster Loan Area No. 2486]

New York (And Contiguous Counties in Pennsylvania); Declaration of Disaster Loan Area

As a result of the President's major disaster declaration on March 21, 1991, I find that the Counties of Allegany, Genesee, Jefferson, Lewis, Livingston, Monore, Ontario, Orleans, St. Lawrence, Steuben, Wayne, Wyoming and Yates in the State of New York constitute a disaster area as a result of damages caused by a severe winter storm which occurred on March 3 and 4, 1991. Applications for loans for physical damage may be filed until the close of business on May 20, 1991, and for loans for economic injury until the close of business on December 23, 1991, at the address listed below: Disaster Area 1 Office, Small Business Administration, 360 Rainbow Blvd., South, 3rd Fl., Occidental Chemical Center, Niagara Falls, NY 14302; or other locally announced locations. In addition, applications for economic injury loans from small businesses located in the contiguous counties of Cattaraugus, Cayuga, Chemung, Erie, Franklin, Hamilton, Herkimer, Niagara, Oneida, Oswego, Schuyler, and Seneca in the State of New York and McKean, Potter, and Tioga Counties in the State of Pennsylvania may be filed until the specified date at the above location.

The interest rates area:

	Percent
For Physical Damage:	
Homeowners With Credit Available Elsewhere	8.000
Homeowners Without Credit Available Elsewhere	4.000
Businesses With Credit Available Elsewhere	8.000
Businesses and Non-Profit Organizations Without Credit Available Elsewhere	4.000
Others (Including Non-Profit Organizations) With Credit Available Elsewhere	9.125
For Economic Injury	
Businesses and Small Agricultural Cooperatives Without Credit Available Elsewhere	4.000

The number assigned to this disaster for physical damage is 248611 and for economic injury the numbers are 728100 for the State of New York and 728200 for the State of Pennsylvania.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

Dated: March 26, 1991.

Alfred E. Judd,

Acting Assistant Administrator for Disaster Assistance.

[FR Doc. 91-7706 Filed 4-1-91; 8:45 am]

BILLING CODE 8025-01-M

Small Business Investment Company; Maximum Annual Cost of Money to Small Business Concerns

13 CFR 107.302 (a) and (b) limit maximum annual Cost of Money (as defined in 13 CFR 107.3) that may be imposed upon a Small Concern in connection with Financing by means of Loans or through the purchase of Debt Securities. The cited regulation incorporates the term "Debenture Rate", which is defined elsewhere in 13 CFR 107.3 in terms that require SBA to publish, from time to time, the rate charged on ten-year debentures sold by Licensees to the public. Notice of this rate will be published upon change in the Debenture Rate.

Accordingly, Licensees are hereby notified that effective the date of publication of this Notice, and until further notice, the Debenture Rate to be used for computation of maximum cost of money pursuant to 13 CFR 107.302 (a) and (b) is 8.85 percent per annum.

13 CFR 107.302 does not supersede or preempt any applicable law imposing an interest ceiling lower than the ceiling imposed by its own terms. Attention is directed to Section 308(i) of the Small Business Investment Act, as further amended by Section 1 of Pub. L. 99-226, December 28, 1985 (99 Stat. 1744), to that law's Federal override of State usury ceilings, and to its forfeiture and penalty provisions.

(Catalog of Federal Domestic Assistance Program No. 59.011, small business investment companies)

Dated: March 27, 1991.

Bernard Kulik,

Associate Administrator for Investment.

[FR Doc. 91-7703 Filed 4-1-91; 8:45 am]

BILLING CODE 8025-01-M

[License No. 03/03-0196]

Allied Investment Corporation; Issuance of a Small Business Investment Company License

On April 5, 1990, a notice was published in the **Federal Register** (55 FR 12769) stating that an application has been filed by Allied Investment Corp. II, with the Small Business Administration (SBA) pursuant to § 107.102 of the Regulations governing small business investment companies (13 CFR 107.102 (1990)) for a license as a small business investment company.

Interested parties were given until close of business May 5, 1990, to submit their comments to SBA. No comments were received.

Notice is hereby given that, pursuant to section 301(c) of the Small Business Investment Act of 1958, as amended, after having considered the application and all other pertinent information, SBA issued License No. 03/03-0196 on March 20, 1991, to Allied Investment Corp. II to operate as a small business investment company.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

Dated: March 26, 1991.

Bernard Kulik,

Associate Administrator for Investment.

[FR Doc. 91-7707 Filed 4-1-91; 8:45 am]

BILLING CODE 8025-01-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Noise Exposure Map Notice, Chicago Midway Airport; Chicago, Illinois

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice.

SUMMARY: The Federal Aviation Administration (FAA) announces its determination that the noise exposure maps submitted by the city of Chicago for Chicago Midway Airport under the provisions of title I of the Aviation Safety and Noise Abatement Act of 1979 (Public Law 96-193) and 14 CFR part 150 are in compliance with applicable requirements.

EFFECTIVE DATE: The effective date of the FAA's determination on the noise exposure maps is March 22, 1991.

FOR FURTHER INFORMATION CONTACT: Jerry R. Mork, Federal Aviation Administration, Great Lakes Region, Chicago Airports District Office, CHI-ADD-630.5, 2300 East Devon Avenue,

Des Plaines, Illinois 60018, (312) 694-7522.

SUPPLEMENTARY INFORMATION: This notice announces that the FAA finds that the noise exposure maps submitted for the Chicago Midway Airport are in compliance with applicable requirements of part 150, effective March 22, 1991.

Under section 103 of the Aviation Safety and Noise Abatement Act of 1979 (hereinafter referred to as "the Act"), an airport operator may submit to the FAA noise exposure maps which meet applicable regulations and which depict non compatible land uses as of the date of submission of such maps, a description of projected aircraft operations, and the ways in which such operations will affect such maps. The Act requires such maps to be developed in consultation with interested and affected parties in the local community, government agencies, and persons using the airport.

An airport operator who has submitted noise exposure maps that are found by FAA to be in compliance with the requirements of Federal Aviation Regulations (FAR) part 150, promulgated pursuant to title I of the Act, may submit a noise compatibility program for FAA approval which sets forth the measures the operator has taken or proposes for the reduction of existing non compatible uses and for the prevention of the introduction of additional non compatible uses.

The FAA has completed its review of the noise exposure maps and related description submitted by the city of Chicago. The specific maps under consideration are the noise exposure maps: Exhibit 1 Existing (1990) Noise Exposure Map and Exhibit 2 Forecast (1995) Noise Exposure Map on the pages 5 and 6 respectively of the submission. The FAA has determined that these maps for Chicago Midway Airport are in compliance with applicable requirements. This determination is effective on March 22, 1991. FAA's determination on an airport operator's noise exposure maps is limited to a finding that the maps were developed in accordance with the procedures contained in appendix A of FAR part 150. Such determination does not constitute approval of the applicant's data, information or plans, or a commitment to approve a noise compatibility program or to fund the implementation of that program.

If questions arise concerning the precise relationship of specific properties to noise exposure contours depicted on a noise exposure map submitted under section 103 of the Act, it should be noted that the FAA is not involved in any way in determining the relative locations of specific properties with regard to the depicted noise contours, or in interpreting the noise exposure maps to resolve questions concerning, for example, which properties should be covered by the provisions of section 107 of the Act. These functions are inseparable from the ultimate land use control and planning responsibilities of local government. These local responsibilities are not changed in any way under part 150 or through FAA's review of noise exposure maps. Therefore, the responsibility for the detailed overlaying of noise exposure contours onto the map depicting properties on the surface rests exclusively with the airport operator which submitted those maps, or with those public agencies and planning agencies with which consultation is required under section 103 of the Act. The FAA has relied on the certification by the airport operator, under § 150.21 of FAR part 150, that the statutorily required consultation has been accomplished.

Copies of the noise exposure maps and of the FAA's evaluation of the maps are available for examination at the following locations:

Federal Aviation Administration, Great Lakes Region, Airports Division Office, 2300 East Devon Avenue, room 269, Des Plaines, Illinois 60018.

Federal Aviation Administration, Chicago Airports District Office, 2300 East Devon Avenue, room 268, Des Plaines, Illinois 60018.

Illinois Department of Transportation, Division of Aeronautics, Capital Airport, Springfield, Illinois 62706.

Department of Aviation, City of Chicago, 20 North Clark Street, suite 3000, Chicago, Illinois 60602.

Department of Aviation, City of Chicago, Midway Airport, 5700 South Cicero Avenue, Chicago, Illinois 60638.

Questions may be directed to the individual named above under the heading **FOR FURTHER INFORMATION CONTACT.**

Issued in Des Plaines, Illinois on March 22, 1991.

Louis H. Yates,

Manager, Chicago Airports District Office, Great Lakes Region.

[FR Doc. 91-7634 Filed 4-1-91; 8:45 am]

BILLING CODE 4910-13-M

Federal Highway Administration

Environmental Impact Statement: Davis and Weber Counties, Utah

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of intent.

SUMMARY: The FHWA is issuing this notice to advise the public that an environmental impact statement (EIS) will be prepared for a proposed highway project in Davis and Weber Counties, Utah.

FOR FURTHER INFORMATION CONTACT: Tom Allen, U.S. Department of Transportation, Federal Highway Administration, 2520 West 4700 South, suite 9A, Salt Lake City, Utah, 84118, Telephone: (801) 524-5143; R. James Naegle, Utah Department of Transportation, 4501 South 2700 West, Salt Lake City, Utah, 84119, Telephone (801) 965-4160; or Lynn Zollinger, Utah Department of Transportation, District One Office, P.O. Box 12580, 169 Wall Avenue, Ogden Utah, 84404, Telephone (801) 399-5921.

SUPPLEMENTARY INFORMATION: The FHWA, in cooperation with Utah Department of Transportation, will prepare an EIS on a proposal to improve the US-89 Highway from I-15 Interchange to the I-84 Interchange for a distance of approximately 11.0 miles.

Improvements to the corridor are considered necessary to provide for the existing and projected traffic demand, and increased safety measures. Alternatives under consideration include: (1.) A "No Action" alternative, (2.) A low-cost Transportation System Management alternative (intersection improvements, traffic signal installation and coordination, etc.), (3.) Mass transit, (4.) Signalized expressway, (5.) Limited access expressway, (6.) Freeway, (7.) A combination of alternatives. Incorporated into and studied with the build alternatives will be alignment and grade variations which would provide for mitigation in sensitive areas.

Letters describing the proposed action and soliciting comments will be sent to appropriate Federal, State, and local agencies, and to private organizations and citizens who have previously expressed or are known to have an interest in this proposal. A series of informational public meetings will be held as necessary during the project development process. A formal scoping meeting and an official public hearing will also be held. Public notice of the time and place of the meetings and hearing will be given. The draft EIS will be available for public and agency

review and comment prior to the public hearing.

To ensure that full range of issues related to this proposed action are addressed and all significant issues identified, comments and suggestions are invited from all interested parties. Comments or questions concerning this proposed action and the EIS should be directed to the FHWA at the address provided above.

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway Planning and Construction. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities apply to this program.)

Issued on: March 21, 1991.

Donald P. Steinke,

Division Administrator, Salt Lake City, Utah.

[FR Doc. 91-7656 Filed 4-1-91; 8:45 am]

BILLING CODE 4910-22-M

Federal Railroad Administration

[FRA Waiver Petition Docket No. RST-90-3]

Burlington Northern Railroad; Public Hearing

The Burlington Northern Railroad (BN) has petitioned the Federal Railroad Administration (FRA) for waiver of compliance with the provisions of 49 CFR 213.113(a)(2), notes C and D, in that BN proposes to protect detected internal rail defects, specifically detail fracture, engine burn fracture and defective weld, by application of undrilled bars and clamps (Bulldog Clamps) in lieu of rail joint bars and track bolts. This proceeding is identified as FRA Waiver Petition Docket No. RST-90-3. See original notice of waiver of compliance at 55 FR 50266-50267 (December 5, 1990).

The BN seeks this relief on its tracks between Lincoln, Nebraska, and Huntley, Montana, (Billings), serving the Powder River Basin coal fields of Wyoming and Montana. The relief would be conditional and for a specific period of time, or times. The period of use would allow both BN and FRA to evaluate the application and effectiveness of the Bulldog Clamp and to determine if internal rail flaw inspection procedures and efforts are enhanced.

After examining the carrier's proposals, documentation, and all other available comments and requests, the FRA has determined that a public hearing is necessary before a final decision is made on this petition.

Accordingly, a public hearing is hereby set for 10 a.m. on May 7, 1991, in the Federal Highway Conference Room, 3rd Floor, Lehigh Building, 555 Zang Street, Lakewood, Colorado.

The hearing will be a nonadversary proceeding and, therefore, there will be no cross-examination of persons presenting statements. The FRA representative will make an opening statement outlining the scope of the hearing. After all initial statements have been considered, those persons wishing to make a brief rebuttal statement will be given an opportunity to do so in the same order in which they made their initial statements. Additional procedures, if necessary for the conduct of the hearing, will be announced at the hearing.

Issued in Washington, DC, on March 22, 1991.

Phil Olekszyk,

Deputy Associate Administrator for Safety.

[FR Doc. 91-7696 Filed 4-1-91; 8:45 am]

BILLING CODE 4910-06-M

[FRA General Docket No. RST-90-4]

Petition for Waiver of Compliance With 49 CFR 213.4; Delaware and Hudson Railway Co.

Notice is hereby given that Delaware and Hudson Railway Company (D&H) has submitted a petition for a waiver of compliance with a section of title 49 Code of Federal Regulations part 213 (Track Safety Standards). Specifically, the petition requests approval to operate certain trains in the petitioner's East Binghamton (New York) Yard, said trains consisting of more than five cars that would be required to be placarded by the Hazardous Materials Regulations (49 CFR part 172), such train operation occurring on tracks that will have been designated by the petitioner as "excepted" in accordance with § 213.4 of the track standards.

Present management of D&H reports that it is taking steps to overcome a backlog of deferred maintenance in this yard and it is indicated that there are plans for substantial rehabilitation to get underway in 1991. Until rehabilitation is completed, the petitioner proposes to designate the entire East Binghamton Yard as "excepted." D&H is petitioning for waiver of compliance with 49 CFR 213.4(e)(3) which prohibits trains containing more than five hazardous materials cars from operating over excepted track. Permission is sought to operate trains including up to 10 hazardous material cars at speeds not exceeding 5 mph in this yard after the track has been classified as "excepted."

FRA is seeking information and comments from all interested parties. FRA will take these comments into account in arriving at a final disposition of this petition. All interested parties are invited to participate in this proceeding through written submissions. FRA does not anticipate scheduling an opportunity for oral comment because the facts do not seem to warrant it. An opportunity to present oral comment will be provided, however, if by May 1, 1991 the party submits a written request for hearing that demonstrates that his or her position cannot be properly presented by written statements.

All written communications concerning this petition should reference "FRA General Docket No. RST-90-4" and should be submitted in triplicate to the Docket Clerk, Office of Chief Counsel, FRA, 400 7th Street SW., Washington, DC 20590.

Comments received by May 17, 1991 will be considered in this proceeding. All comments received will be available for examination by interested persons at any time during regular working hours (9 a.m. to 5 p.m.) in room 8201, Nassif Building, 400 7th Street SW., Washington, DC 20590.

Issued in Washington, DC on March 26, 1991.

Phil Olekszyk,

Deputy Associate Administrator for Safety.

[FR Doc. 91-7695 Filed 4-1-91; 8:45 am]

BILLING CODE 4910-06-M

[BS-AP-No. 3014]

Norfolk and Western Railway Co.; Public Hearing

The Norfolk and Western Railway Company has petitioned the Federal Railroad Administration (FRA) seeking approval of the proposed discontinuance and removal of the traffic control system from Muncie, Indiana, milepost 174.3, to Frankfort, Indiana, milepost 234.7, on the Frankfort District, Fort Wayne Division and from Frankfort, milepost 237.0, to South Yard, Altamont, Indiana, milepost 251.0, on the Peoria District, Decatur Division, all on the Western Region. This proceeding is identified as FRA Block Signal Application Number 3014.

The FRA has issued a public notice seeking comments of interested parties and conducted a field investigation in this matter. After examining the carrier's proposal and the available facts, the FRA has determined that a public hearing is necessary before a final decision is made on this proposal.

Accordingly, a public hearing is hereby set for 10 a.m. on May 9, 1991, in the Neighborhood Community Center at 259 South 3rd Street, Frankfort, Indiana.

The hearing will be an informal one and will be conducted in accordance with rule 25 of the FRA Rules of Practice (49 CFR 211.25), by a representative designated by the FRA.

The hearing will be a nonadversary proceeding and, therefore, there will be no cross-examination of persons presenting statements. The FRA representative will make an opening statement outlining the scope of the hearing. After all initial statements have been completed, those persons wishing to make brief rebuttal statements will be given the opportunity to do so in the same order in which they made their initial statements. Additional procedures, if necessary for the conduct of the hearing, will be announced at the hearing.

Issued in Washington, DC on March 26, 1991.

Phil Olekszyk,

Deputy Associate Administrator for Safety.

[FR Doc. 91-7697 Filed 4-1-91; 8:45 am]

BILLING CODE 4910-06-M

DEPARTMENT OF THE TREASURY

Public Information Collection Requirements Submitted to OMB for Review

Date: March 26, 1991.

The Department of Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1980, Public Law 96-511. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, room 3171 Treasury Annex, 1500 Pennsylvania Avenue, NW., Washington, DC 20220.

Internal Revenue Service

OMB Number: 1545-1056.

Form Number: None.

Type of Review: Extension.

Title: Foreign Tax Credit: Notification and Adjustment Due to Foreign Tax Redeterminations.

Description: Section 905(c) requires notification and redetermination of a taxpayer's United States tax liability to account for the effect of a foreign tax redetermination, in certain cases. The reporting requirements will enable the Internal Revenue Service to recompute a taxpayer's United States tax liability.

Respondents: Individuals or households, Business or other for-profit.

Estimated Number of Respondents: 10,000.

Estimated Burden Hours Per Response: 1 hour.

Frequency of Response: On occasion.

Estimated Total Reporting Burden: 10,000 hours.

Clearance Officer: Garrick Shear, (202) 535-4297, Internal Revenue Service, room 5571, 1111 Constitution Avenue, NW., Washington, DC 20224.

OMB Reviewer: Milo Sunderhauf, (202) 395-6880, Office of Management and Budget, room 3001, New Executive Office Building, Washington, DC 20503.

Lois K. Holland,

Departmental Reports, Management Officer.

[FR Doc. 91-7626 Filed 4-1-91; 8:45 am]

BILLING CODE 4830-01-M

Departmental Offices; Debt Management Advisory Committee; Meeting

Notice is hereby given, pursuant to section 10 of Public Law 92-463, that a meeting will be held at the U.S. Treasury Department in Washington, DC, on April 30 and May 1, 1991, of the following debt management advisory committee:

Public Securities Association
Treasury Borrowing Advisory Committee

The agenda for the Public Securities Association Treasury Borrowing Advisory Committee meeting provides for a working session on April 30 and the preparation of a written report to the Secretary of the Treasury on May 1, 1991.

Pursuant to the authority placed in Heads of Departments by section 10(d) of Public Law 92-463, and vested in me by Treasury Department Order 101-05, I hereby determine that this meeting is concerned with information exempt from disclosure under section 552b(c)(4) and (9)(A) of title 5 of the United States Code, and that the public interest requires that such meetings be closed to the public.

My reasons for this determination are as follows. The Treasury Department requires frank and full advice from representatives of the financial community prior to making its final decision on major financing operations. Historically, this advice has been offered by debt management advisory committees established by the several major segments of the financial community, which committees have been utilized by the Department at meetings called by representatives of the Secretary. When so utilized, such a committee is recognized to be an advisory committee under Public Law 92-463. The advice provided consists of commercial and financial information given and received in confidence. As such debt management advisory committee activities concern matters which fall within the exemption covered by section 552b(c)(4) of title 5 of the United States Code for matters which are "trade secrets and commercial or financial information obtained from a person and privileged or confidential."

Although the Treasury's final announcement of financing plans may not reflect the recommendations provided in reports of an advisory committee, premature disclosure of these reports would lead to significant financial speculation in the securities market. Thus, these meetings also fall within the exemption covered by section 552b(9)(A) of title 5 of the United States Code.

The Assistant Secretary (Domestic Finance) shall be responsible for maintaining records of debt management advisory committee meetings and for providing annual reports setting forth; a summary of committee activities and such other matters as may be information to the public consistent with the policy of section 552b of title 5 of the United States Code.

Dated: March 27, 1991.

Jerome H. Powell,

Assistant Secretary (Domestic Finance).

[FR Doc. 91-7642 Filed 4-1-91; 8:45 am]

BILLING CODE 4810-25-M

UNITED STATES INFORMATION AGENCY

Culturally Significant Objects Imported for Exhibition; Determination

Notice is hereby given of the following determination: Pursuant to the authority vested in me by the Act of October 19, 1965 (79 Stat. 985, 22 U.S.C. 2459), Executive Order 12047 of March 27, 1978 (43 FR 13359, March 29, 1978), and Delegation Order No. 85-5 of June 27, 1985 (50 FR 27393, July 2, 1985), I hereby determine that the objects to be included in the exhibit "Gustaf Nordenskiold: Impact on One Hundred Years of Archeology" (see list),[1] imported from abroad for the temporary exhibition without profit within the United States, are of cultural significance. These objects are imported

[1] A copy of this list may be obtained by contacting Ms. Lorie J. Nierenberg of the Office of the General Counsel of USIA. The telephone number is 202/619-6975, and the address is U.S. Information Agency, 301 Fourth Street, SW., room 700, Washington, DC 20547.

pursuant to a loan agreement with the foreign lender. I also determine that the temporary exhibition or display of the listed exhibit objects at Mesa Verde National Park, Colorado, beginning on or about May 19, 1991, to on or about October 5, 1991, and subsequently at the Colorado State Historical Society, Denver, Colorado, the Western Colorado Museum, Grand Junction, Colorado, and possibly at the Maxwell Museum of Anthropology, Albuquerque, New Mexico, the Mitchell Indian Museum, Evanston, Illinois, and the Boston Fine Arts Museum, Boston, Massachusetts, is in the national interest.

Public notice of this determination is ordered to be published in the **Federal Register.**

Dated: March 28, 1991.

R. Wallace Stuart,

Acting General Counsel.

[FR Doc. 91-7694 Filed 4-1-91; 8:45 am]

BILLING CODE 8230-01-M

Sunshine Act Meetings

Federal Register
Vol. 56, No. 63
Tuesday, April 2, 1991

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

March 28, 1991

TIME AND DATE: 10:00 a.m., Thursday, April 4, 1991.

PLACE: Room 600, 1730 K Street NW., Washington, DC.

STATUS: Open.

MATTERS TO BE CONSIDERED: The Commission will consider and act upon the following:

1. *Arch of Kentucky, Inc.*, Docket No. KENT 89-161-R, etc. (Issues include whether the judge erred in concluding that Arch violated 30 CFR §§ 75.1725(c) and 75.1722(c)).
2. *Mettiki Coal Corporation*, Docket No. YORK 89-19-R, etc. (Issues include whether the judge erred in concluding that Mettiki violated Section 104(b) of the Mine Act, 30 U.S.C. § 814(b) and 30 CFR § 77.507).

Any person intending to attend this meeting who requires special accessibility features and/or auxiliary aids, such as sign language interpreters, must inform the Commission in advance of those needs. Subject to 29 CFR § 2706.150(a)(3) and § 2706.160(d).

CONTACT PERSON FOR MORE INFORMATION: Jean Ellen (202) 653-5629 / (202) 708-9300 for TDD Relay 1-800-877-8339 (Toll Free).

Jean H. Ellen,
Agenda Clerk.

[FR Doc. 91-7797 Filed 3-29-91; 11:29 am]
BILLING CODE 6735-01-M

FEDERAL RESERVE SYSTEM BOARD OF GOVERNORS

TIME AND DATE: 10:00 a.m., Friday, April 5, 1991.

PLACE: Marriner S. Eccles Federal Reserve Board Building, C Street entrance between 20th and 21st Streets NW., Washington, DC 20551.

STATUS: Open.

MATTERS TO BE CONSIDERED:

1. (a) Publication for comment of proposed amendments to Regulation D (Reserve Requirements of Depository Institutions) to prevent erosions of the reserve base for transactions accounts; and (b) final technical amendments and corrections to the regulation.
2. Any items carried forward from a previously announced meeting.

Note: This meeting will be recorded for the benefit of those unable to attend. Cassettes will be available for listening in the Board's Freedom of Information Office, and copies may be ordered for $5 per cassette by calling (202) 452-3684 or by writing to: Freedom of Information Office, Board of Governors of the Federal Reserve System, Washington, DC 20551.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board; (202) 452-3204.

Dated: March 29, 1991.

Jennifer J. Johnson,
Associate Secretary of the Board.

[FR Doc. 91-7779 Filed 3-29-91; 10:11 am]
BILLING CODE 6210-01-M

FEDERAL RESERVE SYSTEM BOARD OF GOVERNORS

TIME AND DATE: Approximately 11:00 a.m., Friday, April 5, 1991, following a recess at the conclusion of the open meeting.

PLACE: Marriner S. Eccles Federal Reserve Board Building, C Street entrance between 20th and 21st Streets NW., Washington, DC 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.
2. Any items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board; (202) 452-3204. You may call (202) 452-3207, beginning at approximately 5 p.m. two business days before this meeting, for a recorded announcement of bank and bank holding company applications scheduled for the meeting.

Dated: March 29, 1991.

Jennifer J. Johnson,
Associate Secretary of the Board.

[FR Doc. 91-7780 Filed 3-29-91; 10:11 am]
BILLING CODE 6210-01-M

FEDERAL RESERVE SYSTEM BOARD OF GOVERNORS

TIME AND DATE: 11:00 a.m., Monday, April 8, 1991.

PLACE: Marriner S. Eccles Federal Reserve Board Building, C Street entrance between 20th and 21st Streets, NW., Washington, DC 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.
2. Any items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board; (202) 452-3204. You may call (202) 452-3207, beginning at approximately 5 p.m. two business days before this meeting, for a recorded announcement of bank and bank holding company applications scheduled for the meeting.

Dated: March 29, 1991.

Jennifer J. Johnson,
Associate Secretary of the Board.

INTERNATIONAL TRADE COMMISSION

USITC SE-91-11

TIME AND DATE: Tuesday, April 23, 1991 at 10:30 a.m.

PLACE: Room 101, 500 E Street SW., Washington, DC 20436.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED:

1. Agenda
2. Minutes
3. Ratifications
4. Petitions and complaints
   Certain Food Trays with Lockable Lids (Docket Number 1614)
5. Inv. 731-TA-461 (Final) (Gray Portland Cement and Cement Clinker from Japan)
6. Any items left over from previous agenda

CONTACT PERSON FOR MORE INFORMATION: Kenneth R. Mason, Secretary, (202) 252-1000.

March 28, 1991.

Kenneth R. Mason
Secretary.

[FR Doc. 91-7804 Filed 3-29-91; 11:39 am]
BILLING CODE 7020-02-M

TENNESSEE VALLEY AUTHORITY

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 56 FR 12420 (March 25, 1991).

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: 10 a.m. (CST), Wednesday, March 27, 1991.

PREVIOUSLY ANNOUNCED PLACE OF MEETING: Gallatin Power Plant Assembly Room, Gallatin, Tennessee.

CHANGES IN THE MEETING: Each member of the TVA Board of Directors has approved the addition of the following item to the previously announced agenda:

B—Purchase Award

3. Negotiated Purchase Contract with Westinghouse Electric Corporation for Various Nuclear Plant Services in the Partners in Performance Program

CONTACT PERSON FOR MORE INFORMATION: Alan Carmichael, Manager, Media Relations, or a member of his staff can respond to requests for information about this meeting. Call 615–632–6000, Knoxville, Tennessee. Information is also available at TVA's Washington Office, 202–479–4412.

Edward S. Christenbury,

General Counsel and Secretary of the Corporation.

[FR Doc. 91–7793 Filed 3–29–91; 10:48 am]

BILLING CODE 8120–08–M

Corrections

Federal Register
Vol. 56, No. 63
Tuesday, April 2, 1991

This section of the FEDERAL REGISTER contains editorial corrections of previously published Presidential, Rule, Proposed Rule, and Notice documents. These corrections are prepared by the Office of the Federal Register. Agency prepared corrections are issued as signed documents and appear in the appropriate document categories elsewhere in the issue.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 91N-0017]

Merrell Dow Phrarmaceuticals, Inc., et al.; Withdrawal of Approval of Abbreviated New Drug Applications

Correction

In notice document 91-3231 beginning on page 5416 in the issue of Monday, February 11, 1991, make the following changes to the table appearing on pages 5416 and 5417:

1. In ANDA Nos. 84-423 and 87-570, "Hydro-chloride" should read "Hydrochloride".

2. In ANDA Nos. 85-513 and 85-517, "chlor-diazepoxide" should read "chlordiazepoxide".

3. In ANDA No. 85-518, "chlor-diazeoxide" should read "chlordiazepoxide".

4. In ANDA No. 85-910, "2.5m/ADAP" should read "2.5mg/ADAP".

5. In ANDA Nos. 87-616 and 87-617 "Hydrochloride was misspelled.

BILLING CODE 1505-01-D

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 1

[CGD 90-067]

RIN 2115-AD67

Recreational Vessel Fees

Correction

In proposed rule document 91-7348 beginning on page 13050, in the issue of Thursday, March 28, 1991, make the following correction:

On page 13051, in the first column, in the first complete paragraph, in the seventh line, several words were omitted; after "influence" remove the "," and insert "; and internal waters of the U.S. not subject to tidal influence,".

BILLING CODE 1505-01-D

federal register

Tuesday
April 2, 1991

Part II

Department of Education

34 CFR Part 441

Adult Education for the Homeless Program; Final Regulations

DEPARTMENT OF EDUCATION

34 CFR Part 441

Adult Education for the Homeless Program

AGENCY: Department of Education.

ACTION: Final regulations.

SUMMARY: The Secretary amends the regulations governing the Adult Education for the Homeless Program. These final regulations implement a statutory change contained in section 611 of the Stewart B. McKinney Homeless Assistance Amendments Act of 1990 (Pub. L. 101–645), which amends section 702(b) of the Stewart B. McKinney Homeless Assistance Act (Pub. L. 100–77).

EFFECTIVE DATE: These regulations take effect either 45 days after publication in the **Federal Register** or later if the Congress takes certain adjournments. If you want to know the effective date of these regulations, call or write the Department of Education contact person. A document announcing the effective date will be published in the **Federal Register.**

FOR FURTHER INFORMATION CONTACT: Mr. Paul R. Geib, Jr., Education Program Specialist, Special Programs Branch, Office of Vocational and Adult Education, U.S. Department of Education (Mary E. Switzer Building, room 4519), 400 Maryland Avenue SW., Washington, DC 20202–7242. Telephone: (202) 732–2364.

SUPPLEMENTARY INFORMATION:

Background

These final regulations implement a recent change to the Stewart B. McKinney Homeless Assistance Act made by section 611 of the Stewart B. McKinney Homeless Assistance Amendments Act of 1990, Public Law 101–645.

The regulations being amended affect the Adult Education for the Homeless Program that assists States in conducting, directly or through awards to local recipients, adult literacy programs for homeless adults.

Waiver of Proposed Rulemaking

In accordance with section 431(b)(2)(A) of the General Education Provisions Act (20 U.S.C. 1232(b)(2)(A)), and the Administrative Procedure Act (5 U.S.C. 553), it is the practice of the Secretary to offer interested parties the opportunity to comment on proposed regulations. However, because the regulatory change involves only deleting regulatory language that corresponds to the statutory deletion made by section 611 of the Stewart B. McKinney Homeless Assistance Amendments Act of 1990, the Secretary for good cause finds that publication of a proposed rule is unnecessary and contrary to the public interest under 5 U.S.C. 553(b)(B).

Executive Order 12291

These regulations have been reviewed in accordance with Executive Order 12291. They are not classified as major because they do not meet the criteria for major regulations established in the order.

Regulatory Flexibility Act Certification

The Secretary certifies that these regulations would not have a significant economic impact on a substantial number of small entities. Under the Adult Education for the Homeless Program, grants are available only to States, and States and State agencies are not defined as "small entities" in the Regulatory Flexibility Act. To the extent that these regulations may have an impact on small entities, they repeat statutory requirements.

Paperwork Reduction Act of 1990

These regulations have been examined under the Paperwork Reduction Act of 1980 and have been found to contain no information collection requirements.

Intergovernmental Review

This program is subject to the requirements of Executive Order 12372 and the regulations in 34 CFR part 79. The objective of the Executive Order is to foster an intergovernmental partnership and a strengthened federalism by relying on a process developed by State and local governments for coordination and review of proposed Federal financial assistance.

In accordance with the order, this document is intended to provide early notification of the Department's specific plans and actions for this program.

List of Subjects in 34 CFR Part 441

Adult education, Education, Grant programs, Reporting and Recordkeeping requirements, Volunteers.

(Catalog of Federal Domestic Assistance Number: 84.192 Adult Education for the Homeless Program)

Dated: March 27, 1991.

Lamar Alexander,

Secretary of Education.

The Secretary amends title 34 of the Code of Federal Regulations by amending part 441 as follows:

PART 441—ADULT EDUCATION FOR THE HOMELESS PROGRAM

1. The authority citation for part 441 continues to read as follows:

Authority: 42 U.S.C. 11421, unless otherwise noted.

2. Section 441.21 is amended by revising paragraph (b)(1)(i) to read as follows:

§ 441.21 What selection criteria does the Secretary use?

* * * * *

(b) * * *

(1)(i) An estimate of the number of homeless persons expected to be served.

* * * * *

[FR Doc. 91–7630 Filed 4–1–91; 8:45 am]

BILLING CODE 4000–01–M

DEPARTMENT OF EDUCATION

[CFDA No.: 84.192]

Adult Education for the Homeless Program; Invitations for Applications for New Awards for Fiscal Year (FY) 1992

Purpose of Program: The Adult Education for the Homeless Program provides assistance to enable State educational agencies to plan and implement, either directly or through contracts or subgrants, a program of literacy training and basic skills remediation for adult homeless individuals within their States.

Eligible applications: State educational agencies in the 50 States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands.

Deadline for Transmittal of Applications: June 14, 1991.

Deadline for Intergovernmental Review: August 15, 1991.

Applications available:

Available funds: $9,759,000.

Estimated range of awards: $75,000–$500,000.

Estimated average size of awards: $280,000.

Estimated number of awards: 35.

Note: The Department is not bound by any estimates in this notice.

Project Period: Up to 12 months.

Applicable Regulations: (a) The Education Department General Administrative Regulations (EDGAR) in 34 CFR Part 75 (Direct Grant Programs), Part 77 (Definitions that Apply to Department Regulations), Part 79 (Intergovernmental Review of Department of Education Programs and Activities), Part 80 (Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments), Part 81 (General Education Provisions Act—Enforcement), Part 82 (New Restrictions on Lobbying), Part 85 (Governmentwide Debarment and Suspension (Nonprocurement) and Governmentwide Requirements for Drug-Free Workplace (Grants)), and Part 86 (Drug-Free Schools and Campuses; and (b) The regulations for this program in 34 CFR part 441.

Invitational Priority: The Secretary is particularly interested in applications that meet the following invitational priority:

Applications that propose a holistic approach to serving homeless adults by providing life skills along with basic skills to those clients. In this approach adult education activities should be coordinated with a variety of other services that may be obtained from a number of separate providers.

However, under 34 CFR 75.105(c)(1) an application that meets this invitational priority does not receive competitive or absolute preference over other applications.

Selection Criteria: The Secretary assigns the fifteen points, reserved in 34 CFR 441.20(b), as follows: 10 points to selection criterion (c)—Plan of operation—in 34 CFR 441.21(c) for a total of 25 points for that criterion; and 5 points to selection criterion (d)—Quality of key personnel—in 34 CFR 441.21(d) for a total of 20 points for the criterion.

FOR FURTHER INFORMATION CONTACT: Paul R. Geib, Jr., Special Programs Branch, Division of National Programs, Office of Vocational and Adult Education, U.S. Department of Education, 400 Maryland Avenue, SW. (room 4512, Mary E. Switzer Building), Washington, DC 20202–7327. Telephone (202) 732–2364.

Authority: 42 U.S.C. 11421.

Dated: March 27, 1991.

Betsy Brand,

Assistant Secretary, Office of Vocational and Adult Education.

[FR Doc. 91–7631 Filed 4–1–91; 8:45 am]

BILLING CODE 4000–01–M

federal register

Tuesday
April 2, 1991

Part III

Department of Transportation

Federal Aviation Administration

14 CFR Part 71

Alteration of the Chicago Terminal Control Area; Illinois; Final Rule

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 89-AWA-13]

Alteration of the Chicago Terminal Control Area; IL

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment alters the Chicago, IL, Terminal Control Area (TCA). This action will raise the upper limits of the TCA to 10,000 feet mean sea level (MSL) to enable air traffic control (ATC) to provide terminal ATC service to arriving and departing turbojet aircraft in a TCA environment throughout transition to and from the en route structure. Additionally, this action will extend the lateral limits of the TCA to 25 nautical miles to the south in order to provide an area wherein ATC can enhance ATC service to Chicago Midway Airport. This action redefines several existing subareas, which will enhance air traffic procedures, and releases present TCA airspace not required for use by ATC.

EFFECTIVE DATE: 0901 UTC, May 2, 1991.

FOR FURTHER INFORMATION CONTACT: Patricia Crawford, Airspace and Obstruction Evaluation Branch (ATP-240), Airspace-Rules and Aeronautical Information Division, Air Traffic Rules and Procedures Service, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591; telephone: (202) 267-9255.

SUPPLEMENTARY INFORMATION:

Background

The TCA program was developed to reduce the midair collision potential in the congested airspace surrounding airports with high density air traffic by providing an area in which all aircraft will be subject to certain operating rules and equipment requirements.

The density of traffic and the types of operations being conducted in the airspace surrounding major terminals increase the probability of midair collisions. In 1970, an extensive study found that the majority of midair collisions occurred between a general aviation (GA) aircraft and an air carrier, military, or another GA aircraft. The basic causal factor common to these conflicts was the mix of uncontrolled aircraft operating under visual flight rules (VFR) and controlled aircraft operating under instrument flight rules (IFR). TCA's provide a method to accommodate the increasing number of IFR and VFR operations. The regulatory requirements of TCA airspace afford the greatest protection for the greatest number of people by providing ATC with an increased capability to provide aircraft separation service, thereby minimizing the mix of controlled and uncontrolled aircraft.

To date, the FAA has established a total of 29 TCA's. The FAA is proposing to take action to modify or implement the application of these proven control techniques to more airports to provide greater protection of air traffic in the airspace regions most commonly used by passenger-carrying aircraft.

User Group Participation

The modifications to the TCA in this final rule are the product of discussions with a broad representation of the aviation community and substantial public participation. In conjunction with this action, the FAA will continue to work cooperatively with local user groups to ensure that the TCA is effective for all users by identifying any adjustments or modifications that appear necessary. Through joint FAA and user cooperation, any problems that arise can then be identified and corrective action taken when necessary.

Initially, informal airspace meetings were held on September 17, November 5, and December 3, 1988, and January 7, 1989, to permit local aviation interests and airspace users an opportunity to present input on the alteration of the Chicago TCA. An additional opportunity for public participation was provided by a Notice of Proposed Rulemaking (NPRM) published in the **Federal Register** on April 6, 1990 (55 FR 13032). Comments were received in response to the Notice. Due consideration has been given to these comments as well as the comments received at the various meetings.

Discussion of Comments

The FAA received six comments pertaining to the TCA proposal from the following organizations: The Air Line Pilots Association (ALPA), the Aircraft Owners and Pilots Association (AOPA), the Air Transport Association of America (ATA), the Experimental Aircraft Association (EAA), the Chicago Airspace User Group Committee (CAUG), and the ATA Central Region. The FAA considered these comments and has amended the final TCA design as contained in this rule. The FAA believes that the final TCA design contained herein promotes the safe and efficient use of airspace while satisfying ATC and user requirements.

The ALPA supported all the proposed changes to the Chicago TCA as published in the NPRM. Three comments supported reducing Area B from 10.5 to 10 nautical miles, expanding Area D to the south of Chicago Midway Airport (MDW), and establishing Area F. The ATA supported the proposed action to raise the upper limits of the TCA to 10,000 feet MSL.

Two commenters objected to the proposed reduction of Area A from 6.5 to 6 nautical miles, and one commenter objected to the proposed reduction of Area B. All three commenters based their objections on the premise that marginal airspace protection would exist in these areas for controlled aircraft on instrument approach altitude assignments and descent gradients.

The FAA believes that the protection and safety of controlled aircraft on instrument approaches in the TCA will not be compromised with the ½-mile reduction of these areas. Conversely, the reduction of Area A will allow sufficient airspace protection of controlled aircraft from uncontrolled aircraft in the vicinity of Palwaukee Airport, which underlies the northwest instrument approaches to Chicago O'Hare Airport. The reduction of Area B will give Schaumburg Air Park more usable airspace for approaches and will allow VFR flight closer to the shoreline of the lake, east of Chicago.

Three commenters objected to the proposed action to raise the upper limits of the TCA to 10,000 feet MSL citing the action as an excessive ATC utilization of airspace; they stated that the action, if adopted, would not enhance air safety but would dramatically increase controller workload. Furthermore, according to the commenters, the proposed action would effectively close off approximately 50 nautical miles of uncontrolled airspace to VFR traffic in the Chicago area. To address this situation, the commenters suggested that the FAA establish a transition area above the Chicago O'Hare Airport.

Since the implementation of the Chicago TCA almost two decades ago, the volume of air traffic in the Chicago area operating between 7,000 and 10,000 feet MSL has increased considerably, and the existing volume of traffic cannot be accommodated with a TCA upper limit of 7,000 feet MSL. Additionally, IFR flights above 10,000 feet MSL en route to the Chicago area descend to 10,000 feet and are transferred to O'Hare terminal radar approach control. To enable ATC to provide terminal ATC service to arriving turbojet aircraft in a TCA environment throughout transition from the en route structure, the FAA is establishing the upper limits of the

Chicago TCA at 10,000 feet MSL. The FAA believes that this action will provide the highest degree of safety while preserving the most efficient use of the available terminal airspace. For the VFR flights through the Chicago area by pilots who elect not to fly above the TCA, ample airspace exists for uncontrolled aircraft to traverse below the floor of the TCA without contacting approach control facilities or control towers in the area. The FAA believes that this procedure will provide a more expeditious flow of a larger volume of uncontrolled aircraft through the Chicago area as opposed to establishing a transition route over Chicago O'Hare Airport.

Five commenters addressed the proposed establishment of Area G. Two comments opposed this proposal stating that the design of Area G is too small and lacks visual definition for pilot operations at Palwaukee Airport. Three commenters suggested moving the northwest boundary of Area G more to the west and/or redesigning the shape of Area G to coincide with the shape of Area E. Four commenters expressed concern that the small area is too close to the instrument approaches to Runway 14L at Chicago O'Hare Airport and recommended a larger size for the proposed area.

The FAA will expand the size of Area G by moving the northwest boundary of the area to the west of the proposed location. The new boundary will overlie and be defined by U.S. Highway 12. This action will provide more airspace for protection of aircraft operations at Palwaukee Airport from aircraft on the instrument approaches to Runway 14L at Chicago O'Hare Airport. Also, this action is consistent with the FAA's policy to preserve the most efficient use of the available terminal airspace. Redesigning the shape of Area G to coincide with the shape of Area E would take more uncontrolled airspace than needed to encompass updated ATC procedures and increased traffic flow in the terminal area; this action would not be consistent with the FAA's policy of efficient use of the available terminal airspace.

One commenter suggested establishing a TCA at Chicago Midway Airport. Chicago Midway Airport does not meet the establishment criteria for a TCA, i.e., 3.5 million passengers enplaned annually or a total airport operations count of 300,000 of which 50 percent is air carrier. Currently, the airport is serviced by an airport radar service area.

Three commenters stated that they did not see the need to have the lower limits (floor) of area C at 3,000 feet MSL and recommended that the lower floor of the area be raised to 3,600 feet MSL. Raising the lower limits of the TCA in Area C to 3,600 feet MSL will have a direct and adverse impact on the ATC operational procedures at Chicago O'Hare terminal radar approach control (TRACON) facility. Currently, aircraft en route to Chicago O'Hare are cleared to descend to 3,000 feet in Area C in order to have the aircraft established at an altitude below the glide slope angle for interception of the final approach course. Also, having aircraft descend to the lowest usable altitude in Area C provides ATC with additional airspace to clear departing aircraft above arrivals without using excessive vectoring techniques.

Three commenters requested that the FAA reconsider its position of not using geographical landmarks to identify the boundaries of the TCA. Specific reference was made which suggested Interstate Highway 290 west of Chicago O'Hare Airport as the western boundary of Area A. The commenters emphasized that the use of prominent geographical landmarks in identifying a TCA is extremely useful to pilots who elect to remain clear of various TCA areas. In addition, the aid to VFR flights around the various boundaries of the TCA would minimize TCA violations and improve flight safety.

The FAA agrees with the concept of the advantages of using geographical landmarks for TCA identification. Whenever feasible, the FAA has used geographical landmarks to identify TCA's or portions therein. The FAA will redefine the western boundary of Area A by using Interstate Highway 290, and the western boundary of Area G will be redefined by using a prominent geographical landmark—U.S. Highway 12.

The Rule

This amendment to part 71 of the Federal Aviation Regulations modifies the TCA at Chicago, IL. This action will raise the upper limits of the TCA to 10,000 feet MSL to enable ATC to provide terminal ATC service to arriving and departing turbojet aircraft in a TCA environment throughout transition to and from the en route structure. Additionally, this action will enhance air traffic procedures and simplify VFR transient operations outside TCA airspace by redefining several existing subareas, establishing Areas F and G, and expanding the southern section of Area D to the south in order to provide a better level of safety for aircraft operations at the Chicago Midway Airport.

The number of enplaned passengers at Chicago O'Hare International Airport for 1988 was 28,273,863, and the total number of instrument operations for Chicago O'Hare TRACON for fiscal year 1989 was 1,179,889. The FAA believes that there is a need to alter the Chicago TCA configuration due to the complex operating environment in the Chicago area and the large increase in air traffic operations since the establishment of the Chicago TCA almost two decades ago. This alteration will better serve the users, as well as the FAA, by providing airspace configured to handle the increased amount of air traffic operations and new procedures. The FAA has determined that modifying the TCA at Chicago O'Hare International Airport is in the interest of flight safety and will result in a greater degree of protection for the greatest number of people during flight in the terminal area.

Regulatory Evaluation Summary

Introduction

This section summarizes the regulatory evaluation prepared by the FAA that provides detailed estimates of the economic consequences of this regulatory action. This summary and the full evaluation quantify, to the extent practicable, estimates of the costs to the private sector, consumers, Federal, state and local governments, as well as anticipated benefits.

Executive Order 12291, dated February 17, 1981, directs Federal agencies to promulgate new regulations or modify existing regulations only if potential benefits to society for each regulatory change outweigh potential costs. The order also requires the preparation of a Regulatory Impact Analysis of all "major" rules except those responding to emergency situations or other narrowly defined exigencies. A major rule is one that is likely to result in an annual effect on the economy of $100 million or more, a major increase in consumer costs, a significant adverse effect on competition, or is highly controversial.

The FAA has determined that this rule is not major as defined in the executive order. Therefore, a full regulatory analysis, which includes the identification and evaluation of cost reducing alternatives to the rule, has not been prepared. Instead, the agency has prepared a more concise document termed a regulatory evaluation that analyzes only this proposal without identifying alternatives. In addition to a summary of the regulatory evaluation, this section also contains a final regulatory flexibility determination

required by the 1980 Regulatory Flexibility Act (Pub. L. 96–354) and an international trade impact assessment. The complete regulatory evaluation, which contains more detailed economic information than is provided in this summary, is available in the docket.

Cost-Benefit Analysis

The primary objective of this rule is to enhance aviation safety by modifying the Chicago TCA. This final rule modifies the Chicago TCA by raising the ceiling, extending the southern lateral boundary, and redefining several existing subareas within the present TCA configuration.

Costs

The FAA believes that there will be negligible additional administrative costs and no additional equipment costs to the agency associated with implementation of the final rule. The additional operations workload generated by the rule will be absorbed by current personnel and equipment resources which are already in place at the Chicago TRACON.

The final rule will not impose costs for additional equipment on users of the airspace around Chicago. All aircraft operating within 30 nautical miles of a TCA, a distance that is greater than the boundaries of the Chicago TCA, are currently required to have transponders with automatic altitude reporting capability (Mode C). The final rule will impose no costs on aircraft operators who operate under instrument flight rules. Aircraft operators who routinely operate under IFR conditions consist primarily of large air carriers, business jets, commuters, and air taxis. The rule could, however, potentially impact general aviation aircraft operators, such as pilots of small single-engine planes and gliders, and sport parachutists, who routinely operate under visual flight rules.

Under the final rule, the TCA ceiling will be raised from 7,000 feet MSL to 10,000 feet MSL. Since most GA aircraft operators do not operate directly above the TCA ceiling of 7,000 feet MSL, they are not expected to incur adverse impacts from expansion of the TCA ceiling. However, on rare occasions, the operators of small GA airplanes (such as single-engine, piston types) do operate under VFR between the current TCA ceiling of 7,000 feet MSL and the new TCA ceiling of 10,000 feet MSL. This VFR activity between 7,000 and 10,000 feet is infrequent because of the intense activity within the Chicago TCA. Such operators will not incur any adverse impacts from this rule if they request and receive clearance from ATC to enter the TCA. (During periods of greatest activity, Chicago TRACON may not be able to grant clearance to VFR traffic requesting permission to transit the TCA.) Another option available to these operators is to fly above the 10,000-foot ceiling of the TCA.

This rule will expand a portion of existing Area D of the Chicago TCA. The 20-nautical-mile radius cutout located in the southern section will be eliminated and the airspace will be incorporated into the outer ring, which has a 25-nautical mile radius. This segment of the TCA airspace will have a floor of 3,600 feet MSL. General aviation glider and sailplane pilots represent the only group of airspace users who routinely operate in the vicinity of this expanded area of the TCA and, thus, could be potentially impacted by this part of the final rule. As long as glider pilots operate beneath the floor of 3,600 feet MSL, they will not be impacted by the final rule. However, if the glider pilots wish to fly at an altitude greater than 3,600 feet MSL, they will have to circumnavigate an additional 5 nautical miles to the south. Because of this relatively short distance, the FAA estimates that this rule will have a minimal cost impact on glider operations. Other changes to the Chicago TCA will result in more airspace for uncontrolled VFR traffic; therefore, no cost impacts are anticipated.

Benefits

The rule will generate benefits primarily in the form of enhanced safety to the aviation community and the flying public. Such safety, for instance, is expected to take the form of reduced casualty losses (i.e., aviation fatalities and property damages) as the result of a lowered risk of midair collisions because of increased positive control in airspace to be established at the Chicago TCA.

The expansion of the Chicago TCA will restrict more airspace to controlled aircraft operations from 7,000 feet to 10,000 feet MSL and in a portion of lateral limits of Area D. The FAA is taking this action to prevent a safety problem from occurring. Aircraft operations in the vicinity of the present ceiling and lateral limits of the Chicago TCA are increasing in complexity. In the face of steady activity growth, safety has been maintained in the Chicago TCA through more efficient handling of additional aircraft. The FAA believes that this measure will not be adequate in the future, although they have been successful in preventing midair collisions within the Chicago TCA. Estimating the probability of a potential occurrence in the absence of this rule cannot be determined with a reliable degree of certainty, thus, potential benefits are difficult to quantify. Despite this difficulty, the FAA believes a safety problem is developing. In the absence of this rule, the FAA believes that aviation safety in the subject TCA would be reduced and could potentially lead to catastrophic consequences.

This rule will also accrue benefits in the form of providing more airspace to users who routinely operate under VFR conditions. This is a result of contractions in existing Areas A and B and in a portion of area D.

Conclusion

Because the costs to general aviation pilots will be negligible, while aviation safety will be enhanced and airspace for VFR operations will be increased, the FAA believes the rule is cost-beneficial.

Regulatory Flexibility Determination

The Regulatory Flexibility Act of 1980 (RFA) was enacted to ensure that small entities are not unnecessarily and disproportionately burdened by Government regulations. The RFA requires agencies to review which may have " a significant economic impact on a substantial number of small entities."

The small entities which could be potentially affected by the implementation of this rule are unscheduled operators of aircraft for hire who own nine or fewer aircraft.

Only those unscheduled aircraft operators without the capability to operate under IFR conditions will be potentially impacted by this rule. The FAA believes that all of the potentially impacted unscheduled aircraft operators are already equipped to operate under IFR conditions. This is because such operators fly regularly in airports where radar approach control services have been established. Therefore, the FAA believes this rule will not have a significant economic impact on a substantial number of small entities.

Federalism Implications

The regulation herein will not have substantial direct effects on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this regulation will not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

International Trade Impact Assessment

This rule will neither have an effect on the sale of foreign aviation products or services in the United States, nor will it have an effect on the sale of U.S. products or services in foreign countries. This is because the rule will neither impose costs on aircraft operators nor impose costs on U.S. or foreign aircraft manufacturers.

Conclusion

For the reasons discussed under "Regulatory Evaluation," the FAA has determined that this regulation is not major under Executive Order 12291 and is not significant under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). It is certified that this regulation will not have a significant economic impact, either positive or negative, on a substantial number of small entities.

List of Subjects in 14 CFR Part 71

Aviation safety, Terminal control areas.

The Amendment

Accordingly, pursuant to the authority delegated to me, part 71 of the Federal Aviation Regulations (14 CFR part 71) is amended as follows:

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE AND REPORTING POINTS

1. The authority citation for part 71 continues to read as follows:

Authority: 49 U.S.C. 1348(a), 1354(a), 1510; Executive Order 10854; 49 U.S.C. 106(g) (Revised Pub. L. 97-449, January 12, 1983); 14 CFR 11.69.

§ 71.401 [Amended]

2. Section 71.401(b) is amended to read as follows:

Chicago, IL [Revised]

Primary Airport, Chicago O'Hare International Airport (lat. 41°58'57"N., long. 87°54'25"W.)

Boundaries. Based on the Chicago O'Hare VORTAC (ORD) (lat. 41°59'16"N., long. 87°54'17"W.) arcs, DME distances, and radials.

Area A. That airspace extending upward from the surface to and including 10,000 feet MSL within an area bounded by a line beginning at lat. 42°04'14"N., long. 87°54'56"W.; then clockwise along the 5-mile DME arc of the Chicago O'Hare VORTAC to lat. 41°59'15"N., long. 87°47'35"W.; to lat. 41°59'15"N., long. 87°46'15"W.; then clockwise along the 6-mile DME arc of the Chicago O'Hare VORTAC to Interstate Highway 290 (lat. 41°57'12"N., long. 88°01'56"W.); then north along Interstate Highway 290 to the 6-mile DME arc of the Chicago O'Hare VORTAC (lat. 42°01'20"N., long. 88°01'51"W.); then clockwise along the 6-mile DME arc of the Chicago O'Hare VORTAC to lat. 42°05'12"N., long. 87°55'25"W.; to the point of beginning.

Area B. That airspace extending upward from 1,900 feet MSL to and including 10,000 feet MSL bounded by a line beginning at lat. 42°04'06"N., long. 87°52'34"W.; to lat. 42°05'00"N., long. 87°51'34"W.; to lat. 42°05'00"N., long. 87°43'18"W.; then clockwise along the 10-mile DME arc of the Chicago O'Hare VORTAC to lat. 41°49'34"N., long. 87°51'00"W.; then south along the 5-mile DME arc of the Chicago Midway Airport (lat. 41°47'10"N., long. 87°45'08"W.); to lat. 41°48'59"N., long. 87°51'22"W.; then clockwise along the 10.5-mile DME arc of the Chicago O'Hare VORTAC to lat. 41°49'11"N., long. 87°58'14"W; then clockwise along the 10-mile DME arc of the Chicago Midway Airport to lat. 41°49'40"N., long. 87°58'05"W.; then clockwise along the 10-mile DME arc of the Chicago O'Hare VORTAC to U.S. Highway 12 (lat. 42°08'02"N., long. 88°00'43"W.); then southeast along Highway 12 to the 6-mile DME arc of the Chicago O'Hare VORTAC (lat. 42°05'03"N., long. 87°56'25"W.); then clockwise along the 6-mile DME arc to lat. 42°05'12"N., long. 87°55'25"W.; to 42°04'14"N., long. 87°54'56"W.; then clockwise along the 5-mile DME arc of the Chicago O'Hare VORTAC; to the point of beginning.

Area C. That airspace extending upward from 3,000 feet MSL to and including 10,000 feet MSL within the 15-mile DME radius of the Chicago O'Hare VORTAC, excluding that airspace designated as Area A, Area B, Area E, and Area G.

Area D. That airspace extending upward from 3,600 feet MSL to and including 10,000 feet MSL bounded by a line beginning at lat. 42°07'52"N., long. 88°10'47"W.; to lat. 42°15'40"N., long. 88°19'38"W.; then clockwise along the 25-mile DME arc of the Chicago O'Hare VORTAC to lat. 41°42'03"N., long. 88°18'33"W.; to lat. 41°49'53"N., long. 88°09'58"W.; then clockwise along the 15-mile DME arc of the Chicago O'Hare VORTAC to the point of beginning. Excluding that airspace designated as Area A, Area B, Area C, Area E, and Area G.

Area E. That airspace extending upward from 2,500 feet MSL to and including 10,000 feet MSL bounded by a line beginning at lat. 42°05'00"N., long. 87°43'18"W.; to lat. 42°05'00"N., long. 87°51'34"W.; to lat. 42°08'08"N., long. 87°48'06"W.; then clockwise along the 10-mile DME arc of the Chicago O'Hare VORTAC to the point of beginning.

Area F. That airspace extending upward from 4,000 feet MSL to and including 10,000 feet MSL bounded by a line beginning at lat. 42°07'52"N., long. 88°10'47"W.; to lat. 42°15'40"N., long. 88°19'38"W.; then counterclockwise along the 25-mile DME arc of the Chicago O'Hare VORTAC to lat. 42°13'18"N., long. 88°22'05"W.; to lat. 42°08'17"N., long. 88°18'15"W.; then counterclockwise along the 20-mile DME arc of the Chicago O'Hare VORTAC to lat. 41°49'40"N., long. 88°17'48"W.; to lat. 41°45'42"N., long. 88°22'24"W.; then counterclockwise along the 25-mile DME arc of the Chicago O'Hare VORTAC to lat. 41°42'03"N., long. 88°18'33"W.; to lat. 41°49'53"N., long. 88°09'58"W.; then clockwise along the 15-mile DME arc of the Chicago O'Hare VORTAC to the point of beginning.

Area G. That airspace extending upward from 2,500 feet MSL to and including 10,000 feet MSL bounded by a line beginning at lat. 42°05'12"N., long. 87°55'25"W.; to lat. 42°09'00"N., long. 87°57'22"W.; then counterclockwise along the 10-mile DME arc of the Chicago O'Hare VORTAC to U.S. Highway 12 (lat. 42°08'02"N., long. 88°00'43"W.); then southeast along U.S. Highway 12 to the 6-mile DME arc of the Chicago O'Hare VORTAC (lat. 42°05'03"N., long. 87°56'25"W.); then clockwise along the 6-mile DME arc of the Chicago O'Hare VORTAC to the point of beginning.

Issued in Washington, DC, on March 27, 1991.

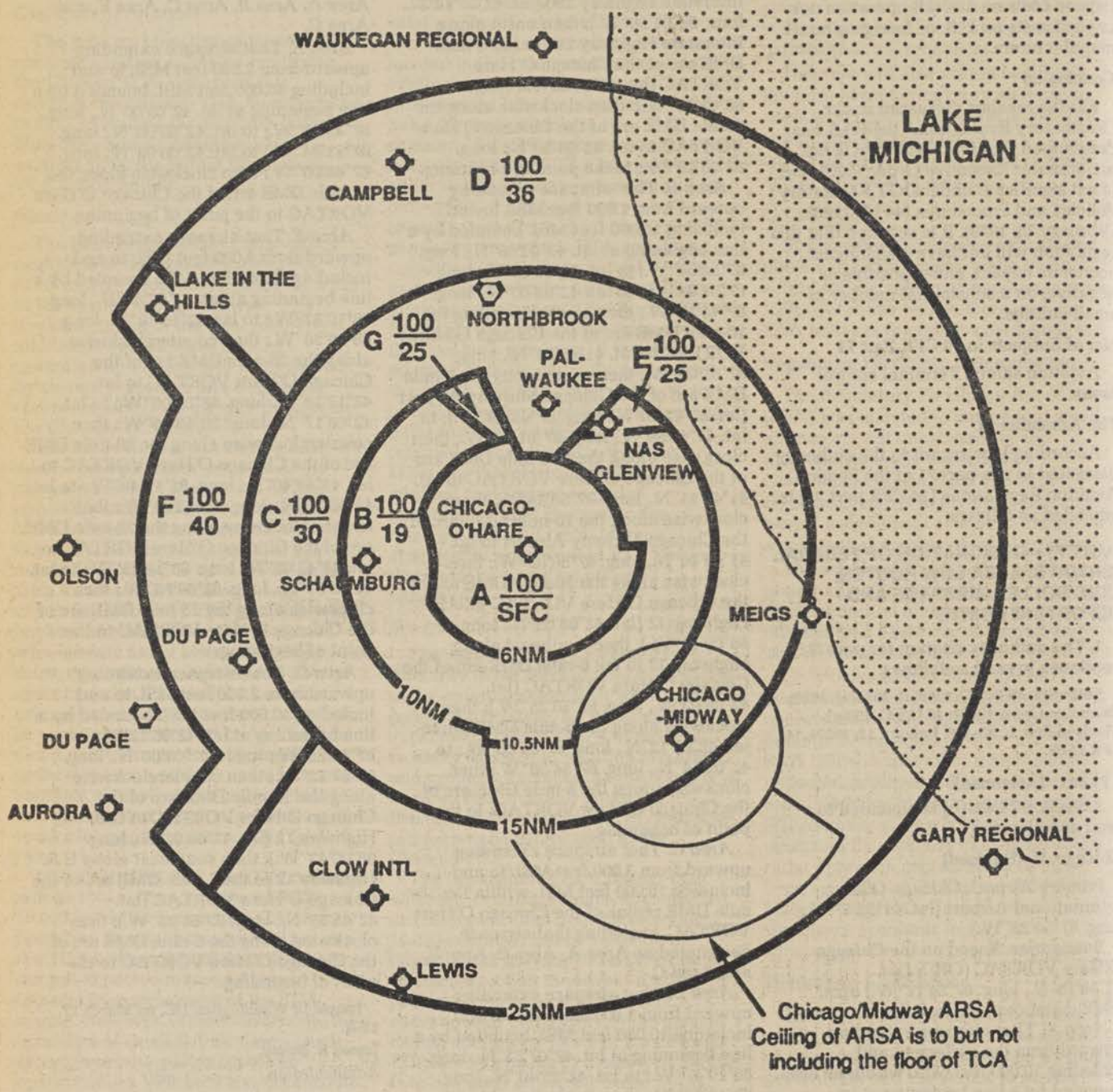
James B. Busey,

Administrator.

BILLING CODE 4910-13-M

CHICAGO/O'HARE TERMINAL CONTROL AREA

(NOT TO BE USED FOR NAVIGATION)



Prepared by the
FEDERAL AVIATION ADMINISTRATION
Cartographic Standards Section
ATP-220

[FR Doc. 91-7632 Filed 4-1-91; 8:45 am]
BILLING CODE 4910-13-C

federal register

Tuesday
April 2, 1991

Part IV

Department of Commerce

National Telecommunications and Information Administration

Grants for Planning and Construction of Public Telecommunications Facilities; Acceptance of Applications for Filing; Notice

DEPARTMENT OF COMMERCE

National Telecommunications and Information Administration

Grants for Planning and Construction of Public Telecommunications Facilities; Acceptance of Applications for Filing

I. New Applications and Major Amendments to Deferred Applications

Notice is hereby given that the following described applications for Federal financial assistance are accepted for filing under provision title III, part IV, of the Communications Act of 1934, as amended (47 U.S.C. 390–393, 397) and in accordance with 15 CFR part 2301. All of the applications listed in this section were received by January 16, 1991. The effective date of acceptance of these proposals, unless otherwise indicated herein, is "Date Received". Applications are listed by their State.

The acceptance of applications for filing is a procedure designed for making preliminary determinations of eligibility and for providing the opportunity for public comment on applications. Acceptance of an application does not preclude subsequent return or disapproval of an application if it is found to be not in accordance with the provision of either the Act or 15 CFR part 2301, or if the applicant fails to file any additional information requested by the Public Telecommunications Facilities Program (PTFP). Acceptance for filing does not ensure that an application will be funded; it merely qualifies that application to compete for funding with other applications which have also been accepted for filing.

Any interested party may file comments with the Agency supporting or opposing an application and setting forth the grounds for support or opposition. Such comments must contain a certification that a copy of the comments has been delivered to the applicant. Comments must be sent to the address listed in 15 CFR 2301.5(a).

The Agency will incorporate all comments from the public and any replies from the applicant in the applicant's official file.

Dennis R. Connors,

Director, Public Telecommunications Facilities Program.

AK (Alaska)

File No. 91036 CRB Aurora Community Broadcasting, Inc., 4101 University Drive, Anchorage, AK 99508. Signed By: Ms. Alice Walsh, General Manager. Funds Requested: $17,575. Total Project Cost: $35,150. To upgrade the transmission facilities of public radio station KSKA–FM, operating on 91.1 Mhz, Anchorage, AK, by replacing obsolete and failing transmitter control and monitoring equipment needed to deliver public radio service to 250,000 residents of Alaska.

File No. 91043 CRB Lynn Canal Broadcasting, Inc., Tower Road & Theater Court, Haines, AK 99827. Signed By: Mr. Daniel T. Henry, President. Funds Requested: $143,883. Total Project Cost: $191,845. To improve the production and transmission facilities of public radio station KHNS–FM operating on 102.3 Mhz, Haines, AK, by replacing obsolete satellite receive equipment, STL, monitoring, and studio production equipment and installing backup power generators to better serve 4,000 residents of southeast Alaska.

File No. 91067 CTB Alaska Public Television, Inc., 2677 Providence Drive, Anchorage, AK 99508. Signed By: Mr. Elmo Sackett, General Manager. Funds Requested: $641,623. Total Project Cost: $941,623. To improve the production and transmission capability of public television station KAKM–TV, operating on channel 7, Anchorage, AK, by replacing wornout and obsolete routing, VTR and test equipment to provide programming to 282,400 residents of the greater Anchorage area and throughout Alaska.

File No. 91069 CTB University of Alaska, Fairbanks, 910 Yukon Drive, Fairbanks, AK 99775. Signed By: Dr. Donald Behrend, Chancellor. Funds Requested: $894,590. Total Project Cost: $1,192,787. To establish a noncommercial TV station operating on Channel 9 in Anchorage, AK, to provide a full time educational programming service to serve 300,000 residents of Anchorage, Matanusk-Susitna Borough and the Kenai Peninsula of Alaska.

File No. 91070 CRB Alaska Public Radio Network, 4640 Old Seward Highway, Anchorage, AK 99503. Signed By: Ms. Diane Kaplan, President and CEO. Funds Requested: $204,612. Total Project Cost: $272,816. To extend and improve the programming capability of six public radio stations throughout Alaska by installing satellite receive dishes in Unalaska, Sand Point, St. Paul, Chevak, Gelena and Seward to bring satellite delivered programming to 14,268 residents of Alaska.

File No. 91071 CRB Puffin Public Broadcasting, Inc., Mile 3½ Seward Highway, Seward, AK 99664. Signed By: Mr. Mark Ganser, President. Funds Requested: $89,060. Total Project Cost: $118,747. To upgrade the programming capability of a translator operating on 88.1 Mhz, in Seward, AK, by creating public radio station KSRD–FM and installing a production and transmission studio to provide local programming to 3,929 persons in the Seward area.

File No. 91072 CRB Alaska Public Radio Network, 4640 Old Seward Highway, S–202, Anchorage, AK 99503. Signed By: Ms. Diane S. Kaplan, President and CEO. Funds Requested: $35,150. Total Project Cost: $70,300. To upgrade the programming and transmission capability of the Alaska Public Radio Network, Anchorage, AK, by acquiring a mobile satellite uplink to provide essential news, and information programming to 25 member stations in the state and to provide much needed emergency services to areas without other sources of information.

File No. 91078 CRB Kotzebue Broadcasting, Inc., 396 Lagoon Street, Kotzebue, AK 99752. Signed By: Ms. Linda Davidovics, President. Funds Requested: $66,603. Total Project Cost: $88,804. To upgrade the production capabilities of public radio station KOTZ–AM operating on 720 Khz, Kotzebue, AK, by replacing obsolete production and newsroom equipment to better serve 8,500 predominantly Native Alaskan people through the only radio service in Northwest Alaska.

File No. 91203 CRB Kodiak Public Broadcasting Corp., 718 Mill Bay Road, Kodiak, AK 99615. Signed By: Mr. Mark Buckley, President of the Board. Funds Requested: $66,708. Total Project Cost: $88,944. To improve the production and transmission capabilities of public radio station KMXT–FM operating on 101.1 Mhz Kodiak, AK, by replacing aging and obsolete master control, production and newsroom equipment as well as upgrading transmission and test equipment to deliver programming to 15,760 residents of Kodiak Island.

AL (Alabama)

File No. 91129 CRB Alabama State University, 915 South Jackson Street, Montgomery, AL 36195. Signed By: Mr. Leon Howard, President. Funds Requested: $167,313. Total Project Cost: $223,084. To improve the service of public radio station WVAS–FM, 90.7 Mhz in Montgomery, AL, by constructing a tower on the Alabama State University campus. The present tower is located on land leased from a rural electric cooperative. The station also seeks to replace worn-out production equipment, including an audio console, cart machine, CD players, and microphones. Alabama State University is an historically black institution.

File No. 91184 CRB Bd. of Trustees, Univ. of Alabama, Box 870104, Tuscaloosa, AL 35487–0104. Signed By: Mr. Robert L. Wells, Asst. VP for Research. Funds Requested: $277,322.

Total Project Cost: $369,763. To establish a public radio station in Selma, AL, to bring the first public radio service to over 102,000 persons. The station, which will operate on 88.3 MHz, will be part of the University of Alabama public radio system. Although part of its program day will consist of retransmissions of programming from WUAL–FM, in Tuscaloosa, the new station will be able to produce extensive news and public affairs programs relevant to southern Alabama.

File No. 91201 CTB Alabama ETV Commission, 2112 11th Avenue, South, Birmingham, AL 35256. Signed By: Ms. Judy Stone, Executive Director. Funds Requested: $1,210,347. Total Project Cost: $2,420,695. To improve the service of the Alabama Educational Television Commission's statewide network by replacing worn-out and obsolete equipment at two stations (WGIQ, Ch. 43, Louisville, AL, and WHIQ, Ch. 25, Huntsville, AL), including both transmitters and an antenna and transmission line (WGIQ) , and 46 microwave and antennas and associated hardware statewide.

File No. 91234 CRB Alabama A&M University, 4900 Meridian Street, Normal, AL 35762. Signed By: Mr. Carl Harris Marbury, Pres. Alabama A&M University. Funds Requested: $102,293. Total Project Cost: $136,391. To assist in the establishment of a noncommercial radio station to serve the greater Huntsville area of northern Alabama. The station, which will operate on 90.9 MHz with the call letters WJAB–FM, will offer programming designed to meet the needs of the minority community within its service area. The applicant is an Historically Black University.

File No. 91265 CRB Spring Hill College, 4000 Dauphin Street, Mobile, AL 36608. Signed By: Mr. Joseph A. Martin, Jr., General Manager. Funds Requested: $260,298. Total Project Cost: $417,113. To purchase a 6-bay, directional antenna, a new transmitter, and associated equipment for public radio station WHIL–FM, which operates on 91.3 MHz, Mobile, AL. The purchase will be part of a larger project in which WHIL–FM will move its transmitter site and raise its antenna height. The change will bring a first public radio service to over 200,000 residents of southwest Alabama. The project will also replace the on-air and production equipment of the station; the present equipment is obsolete and has been damaged by flooding and lightning strikes.

AR (Arkansas)

File No. 91137 CTB Arkansas Educational TV Comm., 350 South Donaghey, Conway, AR 72032. Signed By: Ms. Susan Howarth, Executive Director. Funds Requested: $709,811. Total Project Cost: $1,419,623. To improve the service of the Arkansas Educational Television Commission's state network by replacing basic equipment at stations KETG–TV (Arkadelphia) and KAFT–TV (Fayetteville), including transmitters and test equipment.

File No. 91245 CRB Little Rock School District, 2801 S. University Ave., 7 SH, Little Rock, AR 72204. Signed By: Dr. Ruth Steele, Superintendent of Schools LRSD. Funds Requested: $52,147. Total Project Cost: $69,530. To improve and extend the service of public radio station KUAR–FM, 89.1 Mhz, in Little Rock, AR, by constructing 4 translators to provide first public radio service to the communities of Batesville, Forrest City, Hope, and Monticello, and to replace an unreliable STL in order to maintain service to KUAR's 1 million listeners. The translators will increase KUAR's listenership by 40,615.

AS (American Samoa)

File No. 91047 CTB American Samoa Government, Pago Pago, AS 96799. Signed By: Peter T. Colman, Governor. Funds Requested: $206,082. Total Project Cost: $206,082. To improve the production facilities of public television station KVZK, Channel 2, in Pago Pago. The project would replace obsolete field cameras and video recorders, and add a portable microwave system to enable the live broadcast of remote productions. The project would also replace an obsolete audio production console and provide a portable spectrum analyzer to maintain the transmission equipment of the station, which serves the 46,000 residents of American Samoa.

AZ (Arizona)

File No. 91046 CRB Arizona Western College, 9500 South Avenue 8E, Yuma, AZ 85366. Signed By: Dr. James R. Carruthers, President. Funds Requested: $21,042. Total Project Cost: $35,070. To improve the facilities of public radio station KAWC–AM, on 1320 Khz, in Yuma. KAWC seeks to replace origination equipment including a console, a clock system, reel-to-reel tape recorders, record/playback cartridge machines, microphones and a routing switcher and related items. Station provides the only public radio service for approximately 100,000 residents of Arizona and parts of California.

File No. 91259 CRB Maricopa Cty. Comm. Coll. Dist., 3124 East Roosevelt, Phoenix, AZ 85008. Signed By: Mr. Dan Whittemore, Vice Chancellor/Business Affairs. Funds Requested: $3,804. Total Project Cost: $6,340. To improve the facilities of the radio reading service by replacing an 11-year old cart-deck machine. Sun Sounds operates the only radio reading service for the print-handicapped in Arizona.

CA (California)

File No. 91024 CTB Community TV of Southern CA, 4401 Sunset Blvd., Los Angeles, CA 90027. Signed By: Mr. Donald G. Youpa, Executive Vice President. Funds Requested: $1,136,873. Total Project Cost: $2,273,746. To upgrade the programming and transmission capability of public television station KCET–TV operating on channel 28, Los Angeles, CA, by replacing an obsolete routing switcher, master control switcher, station automation system and to install a transmission control center to provide programming to the 13,916,000 residents of the greater Los Angeles metropolitan area.

File No. 91044 CTB Valley Public Television, Inc., 1544 Van Ness Avenue, Fresno, CA 93721. Signed By: Mr. Colin Dougherty, General Manager. Funds Requested: $71,685. Total Project Cost: $102,407. To extend the signal of public television station KVPT–TV operating on channel 18, Fresno, CA, by construction a 1 Kw translator on channel 65 in Bakersfield to bring a first over the air service to 400,000 residents of Kern County.

File No. 91111 CTB San Mateo County Cmnty. Col. Dist., 1700 West Hillsdale Blvd., San Mateo, CA 94402. Signed By: Mr. Glenn P. Smith, Chancellor. Funds Requested: $643,947. Total Project Cost: $1,287,895. To improve the transmission capabilities of public television station KCSM–TV channel 60, San Mateo, CA, by replacing aged and obsolete transmitter, antenna, STL, and related test equipment needed to deliver programming to 4,650,000 residents of the San Francisco bay area.

File No. 91190 CTB KQED, Inc., 500 Eighth Street, San Francisco, CA 94103. Signed By: Mr. Eugene Zastrow, Executive Vice President. Funds Requested: $391,725. Total Project Cost $783,452. To improve the production capability of public television station KQED–TV operating on channels 9 and 32 in San Francisco, CA, by replacing 15 year old studio and ENG cameras needed to produce programming for the 7,000,000 residents of the San Francisco bay area and for national PBS distribution.

File No. 91194 CTB KVIE, Inc., 2595 Capitol Oaks Drive, Sacramento, CA 95833. Signed By: Mr. John D. Hershberher, President and General Manager. Funds Requested: $110,297.

Total Project Cost: $220,594. To improve the production and transmission capability of public television station KVIE–TV operating on channel 6 Sacramento, CA by replacing two thirteen year old video tape recorders and related equipment needed to provide programming to 4,672,000 residents of the Sacramento area.

File No. 91237 CTN California State University, 6000 J Street, Sacramento, CA 95819. Signed By: Mr. Arnold Golub, Director, Office of Research. Funds Requested: $960,040. Total Project Cost: $2,855,958. To establish an interactive educational telecommunications network operating from Sacramento, CA, to deliver, via fiber optics, video, audio and data to multiple locations throughout Sacramento and Nevada Counties. The integrated distant learning facility will provide both K–12 and postsecondary educational services to isolated sites throughout the area.

File No. 91263 CTB Rural CA Broadcasting Corp, 5850 Labath Avenue, Rohnert Park, CA 94928. Signed By: Mr. Marc Libarle, President, Board of Directors. Funds Requested: $14,070. Total Project Cost: $18,760. To extend the signal of public television station KRCB–TV, operating on channel 22, Rohnert Park, CA, with a translator in Hopland, CA, to provide a first public television service to 3,000 residents of Hopland, Old Hopland and the McNab Ranch area of southern Mendocino County.

File No. 91274 CRB Monterey Bay PB Foundation, Inc, 176 Forest Avenue, Pacific Grove, CA 93950. Signed By: Mr. Jon Strolle, President, Board of Directors. Funds Requested: $49,682. Total Project Cost: $99,365. To upgrade the transmission and production capability of public radio station KAZU–FM operating on 90.3 Mhz Pacific Grove, CA, by replacing transmitter, antenna, and studio production equipment needed to provide programming to 500,000 residents of the Monterey bay area.

CO (Colorado)

File No. 91131 PRB Electronic Media Utilization, 330 Acoma Street, #307, Denver, CO 80203. Signed By: Ms. Sandra Patterson, President. Funds Requested: $66,396. Total Project Cost: $66,396. To plan for a prototype noncommercial FM radio station that would operate on solar power, and that would serve as a model for cost-effective FM stations that might be constructed in mountainous, rural areas of Colorado and elsewhere.

File No. 91163 CRB White River Electric Assn., Inc., 233 6th Street, Meeker, CO 81641–0958. Signed By: Mr. Joe M. Holeyfield, General Manager. Funds Requested: $45,934. Total Project Cost: $61,245. To activate a noncommercial 100 watt Rocky Mountain Alternative Station (RMAS) operating on 89.1 MHz in Meeker, CO, that would repeat the signal of KPRN–FM Grand Junction's K216BP translator in Meeker, CO, and provide locally originated programming to the approximately 2,500 residents of the sparsely populated north western section of Colorado.

File No. 91173 CTB Front Range Educatl. Media Corp., 1531 Stout Street, Denver, CO 80202. Signed By: Mr. Ted Krichels, General Manager. Funds Requested: $602,172. Total Project Cost: $802,896. To upgrade the production and distribution capability of non-commercial station KBDI–TV, operating on Channel 12 in Denver, CO, by upgrading its existing transmitter, replacing its translators in Colorado Springs and Boulder, and by replacing its worn master control and editing equipment.

File No. 91238 CRB North Fork Valley Public Radio, 213 Grand Avenue, Paonia, CO 81428. Signed By: Ms. Linda Bacigalupi, President. Funds Requested: $22,999. Total Project Cost: $30,665. To improve and upgrade noncommercial radio station KVNF–FM, operating on 91.9 MHz in Paonia, CO, by replacing a severely worn and malfunctioning STL transmitter and receiver, broadcast console, optimod and modulation monitor.

File No. 91272 CRB Western Colorado Public Radio, 1048 Independent Ave., Ste.A–116, Grand Junction, CO 81505–6120. Signed By: Ms. Marsha Thomas, General Manager. Funds Requested: $65,728. Total Project Cost: $131,457. To improve and extend the signal of noncommercial radio station KPRN–FM, operating on 89.5 MHz out of Grand Junction, CO, by replacing the primary transmitter, antenna, and tower. The project would increase the transmitter power to 50 Kw ERP, thus enabling the KPRN–FM signal to reach an additional 25,854 presently unserved residents of western Colorado.

File No. 91275 CRB Radio Reading Service of Rockies, 1415 Patton Drive, Boulder, CO 80303. Signed By: Mr. David Dawson, President, RRSR. Funds Requested: $154,401. Total Project Cost: $205,868. To activate a noncommercial SCA radio reading service for the visually impaired on subcarrier frequencies of noncommercial television station KRMA–TV in Denver, CO. This reading service would be available to 85 percent of the population of Colorado.

CT (Connecticut)

File No. 91240 CRB Connecticut Public Brdcstg, Inc., 240 New Britain Avenue, Hartford, CT 06126. Signed By: Mr. Jerry Franklin, President. Funds Requested: $97,169. Total Project Cost: $194,338. To purchase diverse transmission, origination and interconnection equipment to improve the operations of the Connecticut state public radio system. The project would provide a new FM transmitter for WPKT–FM, the system's flagship station in Middlefield, CT. It would purchase an audio console and digital and analog audio tape machines for the system's main production studio in Hartford, replacing aged and worn-out equivalent equipment there. Finally, it would replace various STL microwave equipment, some of which must be replaced within two years because of FCC regulations.

File No. 91264 CRB University of Connecticut, 2110 Hillside Road, Storrs, CT 06269–3008. Signed By: Mr. John E. Murphy, General Manager. Funds Requested: $15,171. Total Project Cost: $30,343. To purchase a satellite receive-only earth station, with associated audiotape recorders, for noncommercial radio station WHUS–FM, which operates at 91.7 Mhz, Storrs, CT. The downlink facility will permit WHUS–FM to receive national-feed programming so as to enhance the station's ability to provide alternative programming to the listening audience of eastern Connecticut.

File No. 91271 CTB Connecticut Public Brdcstng, Inc., 240 New Britain Avenue, Hartford, CT 06126. Signed By: Mr. Jerry Franklin, President. Funds Requested: $197,707. Total Project Cost: $395,444. To improve the studio production and transmission operations of public television station WEDW–TV, Ch. 49, Stamford, CT, which is part of the Connecticut public TV system. The requested equipment is necessitated by the upcoming move of WEDW–TV's studios to the new Stamford Center for the Arts. The project will purchase an improved routing switcher, additional microwave equipment needed to link the WEDW transmitter to the new studios, audio and video patch panels, color monitors, and audio and video distribution amplifiers.

DC (District of Columbia)

File No. 91021 CTN Amer. Assoc. of Com. & Jr. Coll., 1 Dupont Circle, NW., suite 410, Washington, DC 20036. Signed By: Mr. James F. Gollattscheck, Executive Vice President. Funds Requested: $131,276. Total Project Cost:

$262,553. To improve and expand the Community College Satellite Network (CCSN), through the addition of a seventh satellite uplink, to be located at Massachusetts Bay Community College, Wellesley Hills, MA. The first six uplinks in this system were supported by PTFP in Fiscal Year 1989.

File No. 91091 CTB Howard University, 2222 Fourth Street, NW., Washington, DC 20059. Signed By: Mr. Melvin W. Jones, Treasurer. Funds Requested: $450,000. Total Project Cost: $903,257. To improve the production and transmission capability of public television station WHMM–TV, 32, Washington, DC, by replacing obsolete master control and productions switchers, studio production equipment, engineering test equipment and converting the transmitter to stereo to better serve the 4.93 million residents of the Washington metropolitan area.

File No. 91116 CTN Black College Satellite Network, 500 North Capital St., NW., S–801, Washington, DC 20001. Signed By: Dr. Mabel Phifer, Director. Funds Requested: $1,526,486. Total Project Cost: $2,035,315. To increase the distribution capability of the Black College Satellite Network operating from Washington, DC, by installing eight satellite uplinks at network member campuses and the central network to provide educational and instructional programming to minority undergraduate and public school students throughout the United States.

File No. 91142 PTN EDSAT Institute, 1025 Connecticut Avenue, rm. 506, Washington, DC 20036. Signed By: Ms. Shelly Weinstein, President. Funds Requested: $602,196. Total Project Cost: $970,096. To plan options for a new public telecommunications entity to expand the service areas of existing stations, networks, and educational institutions, and to plan for the governance and organization of an entity that will seek to provide expanded access by primary and secondary educational institutions to programming providers at reduced cost and with maximum use of existing and new technologies. Ultimately, this plan will provide for a hybrid, satellite-based telecommunications system.

File No. 91188 CRB Pacifica Foundation, Inc., 702 H Street, NW., Washington, DC 20001. Signed By: Mr. Leon Collins, General Manager. Funds Requested: $87,573. Total Project Cost: $145,955. To improve the services of community radio station WPFW–FM, 89.3 Mhz, in Washington, DC, by replacing obsolete and worn-out on-air and production equipment, including audio consoles, tape decks, CD players, cart machines, and portable equipment.

DE (Delaware)

File No. 91115 PTN Delaware Technical & Commty. Col, P.O Box 897, Dover, DE 19903. Signed By: Dr. John R. Kotula, President. Funds Requested: $118,746. Total Project Cost: $292,830. To plan for a nationwide satellite-based job site training network for the nation's technical work force, with training to be furnished by a national consortium of technical community colleges.

FL (Florida)

File No. 91022 CRB University of Florida, 219 Grinter Hall, Gainesville, FL 32611. Signed By: Mr. Dillard C. Marshall, Ass't. Director of Research. Funds Requested: $29,085. Total Project Cost: $59,420. To improve the service of public radio station WUFT–FM, 89.1 Mhz, in Gainesville, FL, through acquisition and installation of a replacement production audio console. The current unit, an Audiotronics 110–A, has been in constant use since 1981, and is subject to frequent breakdowns and malfunctions.

File No. 91057 CRB Bascomb Memorial Broad. Fdn. Inc, 4820 SW 75th Avenue, Miami, FL 33155. Signed By: Ms. Margarita Pelley, President. Funds Requested: $72,592. Total Project Cost: $96,789. To improve the services of community radio station WDNA–FM, 88.9 Mhz, serving the Greater Miami area, through the installation of a satellite downlink, acquisition of additional production hardware, and addition of facilities necessary to interconnect to the public radio satellite network.

File No. 91094 PTN School Bd. of Monroe County FL, 242 White Street, Key West, FL 33040. Signed By: Mr. A.J. Henriquez, Superintendent. Funds Requested: $50,000. Total Project Cost: $50,000. To enable the Monroe County School District to plan and design an ITFS system which will deliver educational, instructional, and vocational programming directly to schools and County residents. The Monroe County School District encompasses 13 schools along the 120 miles of the Florida Keys.

File No. 91105 CTB Brevard Community College, 1519 Clearlake Road, Cocoa, FL 32922. Signed By: Mr. Maxwell C. Kin, President. Funds Requested: $477,190. Total Project Cost: $681,700. To extend and improve the services of public television station WRES–TV, Ch. 18, in Cocoa, FL, by installing new production equipment, including new cameras, a production switcher, and monitors, as well as microwave interconnection equipment to enable the station to reach a new transmission tower. WRES plans to increase its power from 1 KW to 60 KW; the power increase will bring a first television signal to 99,441 persons.

File No. 91150 CTB Comm. TV Fdn. of South Florida, 14901 NE Sesame St. (20th Avenue), Miami, FL 33181. Signed By: Mr. George Dooley, President. Funds Requested: $157,524. Total Project Cost: $315,048. To extend the coverage of public television station WPBT–TV, Ch. 2 in Miami, FL, by activating an intercity microwave relay system to Fort Pierce and Vero Beach. WPBT has been notified that its signal will be dropped from the existing MCI relay system to cable headends in these cities, thus eliminating public television service for 45,000 subscribers on the United Artists Cable Systems. Cable penetration in these cities exceeds 70%.

File No. 91167 CTB So. Florida Public T/C, Inc., 3401 S. Congress Avenue, Boynton Beach, FL 33426. Signed By: Mr. Sam J. Barbaro, President and General Manager. Funds Requested: $174,969. Total Project Cost: $233,292. To extend the service of public television station WXEL–TV, Ch. 42, in West Palm Beach, FL, to reach the community of Ft. Pierce, FL, with a 1,000 watt translator operating on Ch. 44. The translator will bring first public television service to approximately 70,000 households (200,000 persons).

File No. 91177 CRB School Board of Dade County, FL, 172 NE. 15th Street, Miami, FL 31312. Signed By: Mr. Octavio J. Visiedo, Superintendent of Schools. Funds Requested: $40,261. Total Project Cost: $80,522. To extend the service of public radio station WLRN–FM, 93.1 Mhz, in Miami, FL, by constructing repeater transmitters to bring first public radio service to approximately two-thirds of Monroe County, FL, from Big Pine Key to Key West. Under this project, 62,500 residents of the Florida Keys will receive first service.

File No. 91187 PTN Broward Community College, 3501 SW Davie Rd./Bldg. 17, Davie, FL 33314. Signed By: Mr. Willis Holcombe, President. Funds Requested: $26,443. Total Project Cost: $33,692. To conduct a planning study to determine how best to bring instructional and informational programming to residents of Broward County through telecommunications. This project is a collaboration between Broward Community College and Florida International University, and includes participation by the hospital district and the school board. A goal of the project is to develop a plan for reaching county residents through cable TV.

File No. 91205 CTB University of Florida, 219 Grinter Hall, Gainesville, FL 32611. Signed By: Mr. Dillard C. Marshall, Asst. Director Sponsored Res. Funds Requested: $27,947. Total Project Cost: $55,895. To improve the service of public television station WUFT–TV, Ch. 5, Gainesville, FL, by replacing a worn-out and unreliable master control switcher.

File No. 91235 CTB Community Communications, Inc., 11510 East Colonial Drive, Orlando, FL 32817–4699. Signed By: Mr. Malcolm Wall, Executive Vice President. Funds Requested: $52,135. Total Project Cost: $104,270. To improve the service of public television station WMFE–TV, Ch. 24, Orlando, FL, by replacing a worn out, 14-year-old production switcher. WMFE serves approximately 2.28 million residents of East Center Florida.

File No. 91236 CRB University of South Florida, 4202 Fowler Avenue, Tampa, FL 33620–4890. Signed By: Mr. Richard Streeter, Dir, Div of Sponsored Research. Funds Requested: $24,500. Total Project Cost: $49,000. To extend the educational and informational programming of the WUSF Radio Reading Service to an additional 750 listeners in the Tampa-St. Petersburg market by purchasing 700 additional receivers.

GA (Georgia)

File No. 91085 CRB Radio Free Georgia, Inc., 1083 Austin Avenue, NE., Atlanta, GA 30307. Signed By: Mr. Tom Davis, Executive Director. Funds Requested: $25,450. Total Project Cost: $33,933. To improve the service of community radio station WRFG–FM, 89.3 Mhz in Atlanta, GA, by equipping the station with a satellite downlink to enable WRFG to interconnect with the public radio system. WRFG–FM's schedule focuses primarily on the news, information, and cultural interests of Atlanta's diverse minority community.

File No. 91089 CRB Radio Free Georgia, Inc., 1083 Austin Avenue, NE., Atlanta, GA 30307. Signed By: Mr. Tom Davis, Executive Director. Funds Requested: $91,922. Total Project Cost: $122,863. To improve the service of community radio station WRFG–FM, 89.3 Mhz in Atlanta, GA, by replacing an 18-year-old transmitter and antenna. WRFG's programming focuses on the news, information, and cultural needs of an ethnically diverse audience of approximately 2.1 million in the city of Atlanta.

File No. 91093 CRB GA Public Telecomm. Commission, 1540 Stewart Avenue, SW., Atlanta, GA 30310. Signed By: Mr. Frank Bugg, Jr., Deputy Director. Funds Requested: $166,456. Total Project Cost: $332,912. To provide first public radio service to parts of Georgia and Alabama by constructing two public radio stations: one in Clay County, in southwestern Georgia, operating at 100,000 watts, and the other in Glynn County in the southeastern coastal area of Georgia, operating at 7,000 watts. Approximately 307,500 residents of Georgia and Alabama would receive first service as a result of this project.

File No. 91096 CRB GA Radio Reading Service, Inc., 1580 Peachtree Street, NW., Atlanta, GA 30309. Signed By: Mr. James E. Cashin, Executive Director. Funds Requested: $34,533. Total Project Cost: $69,066. To improve the Georgia Radio Reading Service by replacing worn-out studio equipment, including an automation controller, tape recorders, and cart machines, and by purchasing an additional 250 SCA receivers to provide service to an additional 400 print-handicapped listeners.

File No. 91128 CTN Georgia Tech Research Corp., 400 Tenth Street, room 246, Atlanta, GA 30332–0420. Signed By: Mr. Robert D. Simpkins, Contracting Officer. Funds Requested: $752,285. Total Project Cost: $877,251. To augment the capabilities of the Georgia Center for Advanced Telecommunications Technology (GCATT), located at Georgia Tech University, by equipping a Multimedia Production Studio to serve as a link between existing courseware/program development elements existing production/delivery activities, and the proposed statewide fiber optic based network, which would link educational institutions, private industry, and the state public broadcasting network.

File No. 91269 CRB Clark College, 111 James P. Brawley Dr., SW., Atlanta, GA 30314. Signed By: Mr. Thomas W. Cole, President. Funds Requested: $52,080. Total Project Cost: $104,160. To improve the service of public radio station WCLK–FM, 91.9 Mhz, Atlanta, by construction an STL and replacing current outdated and unreliable production and on-air equipment. WCLK shares production equipment with Clark College, and has no production studio of its own. By 1992, the station will have to relinquish its use of these facilities. WCLK is a minority station in an ethnically diverse market of 2.3 million listeners.

File No. 91270 CTB Atlanta Board of Education, 740 Bismark Rd. NE., Atlanta, GA 30324. Signed By: Dr. Lester W. Butts, Supt., Atlanta Public Schools. Funds Requested: $581,011. Total Project Cost: $774,682. To improve the service of public television station WPBA–TV, Ch. 30, Atlanta, by a hot standby microwave to maintain on-air reliability; equipment to overcome on-air problems; a videotape editing suite; upgraded stereo receive/broadcast equipment; and new videotape recorders. WPBA serves approximately 2.5 million residents of the Atlanta metropolitan area.

HI (Hawaii)

File No. 91011 CTN University of Hawaii-Manoa, 2540 Maile Way, Honolulu, HI 96822. Signed By: Mr. Moheb Ghali, Director of Research. Funds Requested: $176,279. Total Project Cost: $257,619. To provide a Ku-band satellite uplink at the University of Hawaii-Manoa campus for distribution of foreign language instructional materials. The Department of Education has established the first National Foreign Language Resource Center at the University of Hawaii.

IA (Iowa)

File No. 91079 CTN Iowa Valley Comnty College Dist., 3700 South Center Street, Marshalltown, IA 50158. Signed By: Dr. John J. Prihoda, President. Funds Requested: $1,847,634. Total Project Cost: $2,463,512. To establish a two-channel ITFS to link the two campuses of the Iowa Valley Community College District with each other and with 23 local school districts, two state training schools for juvenile offenders, two elements in an Iowa Indian settlement, and a private-sector business center.

File No. 91186 CTB Iowa Public Broadcasting Board, 6450 Corporate Drive, Johnston, IA 50131. Signed By: Mr. George C. Carpenter, III, Executive Director. Funds Requested: $158,786. Total Project Cost: $396,964. To improve the production capability of the Iowa Public Television system, operating statewide, by replacing three worn-out and obsolete camera systems.

ID (Idaho)

File No. 91125 CRB Idaho State Board of Education, 1910 University Drive, Boise, ID 83725. Signed By: Dr. Asa M. Ruyle, V.P. for Finance & Administrn. Funds Requested: $50,980. Total Project Cost: $101,960. To upgrade and improve the production capabilities of non-commercial radio station KBSU–FM, operating on 91.3 MHz in Boise, ID, by replacing severely worn studio and production equipment.

File No. 91226 CTB State Board of Education, 1910 University Drive, Boise, ID 83725. Signed By: Mr. Jerold A. Garber, General Manager. Funds Requested: $165,995. Total Project Cost: $331,990. To improve and upgrade the studio facilities of Idaho Educational Public Broadcasting network stations KUID–TV (Channel 12/Moscow), KISU–TV (Channel 10/Pocatello), and KAID–

TV (Channel 4/Boise), by replacing video tape recorders, a tape editor and other related equipment.

IL (Illinois)

File No. 91060 CTB Illinois Valley Public T/C Corp., 1501 West Bradley Avenue, Peoria, IL 61625. Signed By: Mr. Elwin L. Basquin, President & General Manager. Funds Requested: $320,500. Total Project Cost: $641,000. To improve the signal of public television station WTVP–TV, Ch. 47, Peoria, IL, by replacing its worn-out and defective transmission equipment and upgrading it for stereo and SAP service.

File No. 91132 CTB Southern Illinois University, 1048 Communications Building, Carbondale, IL 62901. Signed By: Mr. Benjamin A. Shepherd, VP, Academic Affairs & Rsrch. Funds Requested: $151,850. Total Project Cost: $303,700. To improve the production facilities of public television station WSIU–TV, Ch. 8, Carbondale, IL, by replacing obsolete and worn-out cameras and associated equipment.

File No. 91133 CRB Southern Illinois University, 1048 Communications Building, Carbondale, IL 62901. Signed By: Mr. Benjamin A. Shepherd, VP, Academic Affairs & Rsrch. Funds Requested: $148,736. Total Project Cost: $297,472. To provide first local service to a 21-county area centered on Olney, IL, through the activation of a new public radio station to operate at 90.3 MHz.

File No. 91227 CRB WBEZ Alliance, Inc., 1819 West Pershing Road, Chicago, IL 60609. Signed By: Mr. Allan J. Arlow, President, WBEZ Alliance, Inc. Funds Requested: $162,706. Total Project Cost: $325,413. To improve the signal of public radio station WBEZ–FM, operating on 91.5 MHz, Chicago, IL, by replacing worn-out and obsolete transmission and production equipment, including its transmitter, STL, audio consoles, tape recorders, and various other items of studio equipment.

File No. 91231 CTB University of Illinois, 1110 West Main Street, Urbana, IL 61801. Signed By: Mr. Craig S. Bazzani, Comptroller. Funds Requested: $337,514. Total Project Cost: $675,028. To improve the local program production capability of public television station WILL–TV, Ch. 12, Urbana, IL, by replacing obsolete and worn-out studio and field equipment, including video and audio tape recorders, cameras, and a character generator.

IN (Indiana)

File No. 91007 CTB Michiana Public Broad. Corp., 2300 Charger Boulevard, Elkhart, IN 46514. Signed By: Mr. Don A. Checots, President and General Manager. Funds Requested: $69,428. Total Project Cost: $138,857. To improve the production capability of public television station WNIT, Ch. 34, Elkhart, IN, by replacing and upgrading outdated field cameras and related equipment.

KS (Kansas)

File No. 91026 CRB Hutchinson Community College, 815 No. Walnut, suite 300, Hutchinson, KS 67501. Signed By: Dr. James H. Stringer, President. Funds Requested: $403,874. Total Project Cost: $538,498. To activate a new 50 KW public radio station on 90.9 MHz in Great Bend, KS. Station will repeat the signal of Hutchinson Community College's public station KHCC–FM in Hutchinson. Signal will be delivered by microwave and will provide a first signal to approximately 61,564 residents of Great Bend, Russell, Larn and surrounding areas.

File No. 91118 CTN Wichita State University, 1845 Fairmont, Wichita, KS 67208. Signed By: Dr. John B. Breazeale, Executive Vice President. Funds Requested: $34,890. Total Project Cost: $69,780. To activate a new single-channel Instructional Television Fixed Service (ITFS) repeater station in Hutchinson, KS. ITFS station will extend the educational and instructional services of WHR–970 in Wichita. Programming will be received at sites in Hutchinson, McPherson, Hesston, Sterling and possible other sites in a four county area.

KY (Kentucky)

File No. 91039 CRB Eastern Kentucky University, 102 Perkins Building, Richmond, KY 40475–3127. Signed By: Mr. Hanly Funderburk, President. Funds Requested: $29,170. Total Project Cost: $58,340. To improve the facilities of public radio station WEKU–FM, 88.9 MHz, Richmond, KY, by replacing various items of worn-out and obsolete production equipment, including studio and portable audio consoles, cart machines, and tape recorders.

File No. 91052 CRB Western Kentucky University, College Heights, Bowling Green, KY 42101. Signed By: Mr. Paul B. Cook, Exec. V.P., Admin. & Tech. Funds Requested: $33,430. Total Project Cost: $66,861. To improve the programming capabilities of public radio station WKYU–FM, operating on 88.9 MHz in Bowling Green, KY, by equipping a state-of-the-art audio production studio, including a console, digital and analog tape recorders, and audio processing.

File No. 91087 CRB Murray State University, Murray, KY 42071. Signed By: Dr. Ronald J. Kurth, President, Murray State Univ. Funds Requested: $63,187. Total Project Cost: $126,375. To improve the signal of public radio station WKMS–FM, operating on 91.3 MHz in Murray, KY, by replacing its worn-out transmitter and STL. The application also includes a request for an emergency power generator.

File No. 91139 CTB Kentucky Educational Television, 600 Cooper Drive, Lexington, KY 40502. Signed By: Mr. O. Leonard Press, Executive Director. Funds Requested: $467,313. Total Project Cost: $623,085. To improve the facilities of Kentucky Educational Television by replacing worn-out and obsolete equipment, including studio cameras, videotape recorders, routing switchers, and time code generators. KET serves the entire state of Kentucky through 15 public television stations and 8 translators.

File No. 91143 CTB Western Kentucky University, Academic Complex 153, Bowling Green, KY 42101. Signed By: Mr. Paul B. Cook, Exec VP for Admin and Tech. Funds Requested: $84,105. Total Project Cost: $168,210. To improve the facilities of public television station WKYU–TV, Ch. 24, Bowling Green, KY, by replacing two worn-out and obsolete studio/field camera systems.

File No. 91244 CTB Fifteen Telecommunications, Inc., 4309 Bishop Lane, Louisville, KY 40218. Signed By: Mr. John-Robert Curtin, President/CEO. Funds Requested: $362,523. Total Project Cost: $725,046. To improve the facilities of public television station WKPC–TV, Ch. 15, Louisville, KY, by replacing worn-out and obsolete transmission equipment and items of studio equipment including a switcher, videotape recorders, editing system, audio mixer, and monitors.

LA (Louisiana)

File No. 91037 CTB Educational Broadcasting Fdn., 2929 South Carrollton Avenue, New Orleans, LA 70118. Signed By: Mr. Doug Cury, General Manager. Funds Requested: $20,492. Total Project Cost: $27,323. To improve the service of public television station WLAE–TV, Ch. 32 in New Orleans, LA, through the addition of a Secondary Audio Program capability, permitting the station to broadcast the McNeill-Lehrer Newshour in Spanish as well as English.

File No. 91168 CTN Louisiana ETV Authority, 7860 Anselmo Lanae, Baton Rouge, LA 70810. Signed By: Ms. Beth Courtney, Executive Director. Funds Requested: $237,500. Total Project Cost: $475,000. To improve the service of the Louisiana Educational Television Authority's statewide network by purchasing a router/switcher system to replace a ten-year-old system that does not allow distribution of educational

programming through a variety of telecommunications technologies.

File No. 91251 CTB Greater New Orleans Ed. TV Found, 916 Navarre Avenue, New Orleans, LA 70124. Signed By: Mr. Randall Feldman, President & General Manager. Funds Requested: $77,502. Total Project Cost: $155,005. To improve the production facilities of public television station WYES–TV, operating on Ch. 12 in New Orleans, by replacing an obsolete production switcher. The project will also replace worn out one-inch videotape machines used with network delay with 1/2" M–2 videotape machines. WYES–TV serves 2.7 million people in the greater New Orleans metropolitan area.

File No. 91257 CRB University of New Orleans, 2000 Lakeshore Drive, New Orleans, LA 70148. Signed By: Mr. Patrick Gibbs, Vice Chancellor for Bus. Aff. Funds Requested: $32,447. Total Project Cost: $54,930. To improve the production facilities of public radio station WWNO, operating on 89.9 MHz in New Orleans, LA, by purchasing 12 digital audiotape recorders. The project will also provide for the acquisition of digital editing system and audio console for use in remote productions. WWNO provides public radio service to 1,500,000 people in the greater New Orleans metropolitan area.

MA (Massachusetts)

File No. 91015 CRB Talking Information Center, Inc., 130 Enterprise Drive, Marshfield, MA 02050. Signed By: Mr. Ron Bersani, Executive Director. Funds Requested: $48,956. Total Project Cost: $65,275. To purchase SCA generators and monitors to allow the applicant to extend its radio reading service for the print-handicapped to the communities of Lowell, Beverly, Greenfield, Webster, and Haverhill, all in Massachusetts. The project will also replace the telephone line STL with a microwave system at the Pittsfield, MA, site and purchase 300 SCA receivers.

File No. 91059 CTN Mass. Corp. for Educational T/C, 38 Sidney Street, suite 300, Cambridge, MA 02139–4135. Signed By: Dr. Inabeth Miller, Executive Director. Funds Requested: $720,550. Total Project Cost: $960,733. To acquire a mobile production/Ku-band satellite uplink vehicle to produce educational and instructional programming for the Massachusetts Corporation for Educational Telecommunications (MCET). MCET's coursework and other programming will be made available to elementary and secondary schools, colleges and universities, museums, hospitals, and prisons, primarily in Massachusetts but also throughout New England and New York.

File No. 91225 CRB WICN Public Radio Inc., 6 Chatham Street, Worcester, MA 01609. Signed By: Mr. Peter Christianson, Executive Director. Funds Requested: $35,223. Total Project Cost: $70,445. To replace obsolete and worn-out studio production equipment for public radio station WICN–FM, operating on 90.5 Mhz, Worcester, MA. The project will purchase an audio console, audio tape recorders, cart machines, a cassette, microphones, CD players, turntables, and diverse associated equipment.

MD (Maryland)

File No. 91004 CTB MD Public Broadcasting Comm., 11767 Owings Mills Boulevard, Owings Mills, MD 21117. Signed By: Mr. Raymond K. Ho, President and CEO. Funds Requested: $94,407. Total Project Cost: $188,815. To improve the services of Maryland Public Broadcasting by replacing a master control switcher and adding emergency power to the master control area. In addition, MPT will add closed captioning to some of its productions.

File No. 91113 CRB University of MD Eastern Shore, Backbone Road, Princess Anne, MD 21853. Signed By: Dr. William P. Hythe, President. Funds Requested: $55,489. Total Project Cost: $73,986. To upgrade the transmission and programming capability of public radio station WESM–FM operating at 91.3 Mhz, Princess Anne, MD, by installing a satellite receive dish to receive national public radio programming and installing SCA transmit equipment and receivers to provide programming to the print handicapped population of the Delmarva peninsula.

MI (Michigan)

File No. 91084 CTN PACE Telecommunica. Consortium, 6065 Learning Lane, Indian River, MI 49749. Signed By: Mr. Jack A. Keck, Director. Funds Requested: $146,739. Total Project Cost: $210,739. To continue constructing an ITFS system to deliver interactive instructional programming to a rural area of northern Michigan.

File No. 91103 CRB Northern Michigan University, Edgar L. Harden Circle Drive, Marquette, MI 49855. Signed By: Mr. Lyle F. Shaw, Vice Pres. for Fin. & Admin.. Funds Requested: $9,542. Total Project Cost: $19,084. To improve the facilities of public radio station WNMU–FM, 90.1 MHz, Marquette, MI, by replacing worn-out equipment, including an audio console, an amplifier, and tape recorders, and by adding two satellite downlink demodulators.

File No. 91119 CTB Detroit Educ. TV Foundation, 7441 Second Boulevard, Detroit, MI 48202–2796. Signed By: Dr. Robert F. Larson, President and General Manager. Funds Requested: $399,562. Total Project Cost: $532,750. To improve the signal of public television station WTVS–TV, Ch. 56, Detroit, MI, by replacing obsolete and worn-out transmission equipment, and to improve its production facilities by replacing worn-out and obsolete production and control room equipment.

File No. 91232 CRB Blue Lake Fine Arts Camp, Route #2, Twin Lake, MI 49457. Signed By: Mr. William F. Stansell, President. Funds Requested: $23,206. Total Project Cost: $34,126. To improve the facilities of public radio station WBLV–FM, 90.3 MHz, serving Twin Lake, MI, by acquiring a backup power generator for its transmitter site and by replacing certain items of basic studio and production equipment, including cart machines, CD players, and an audio processor.

MN (Minnesota)

File No. 91020 CRN American Public Radio, Inc., 100 North 6th Street, suite 900A, Minneapolis, MN 55403. Signed By: Mr. Bruce Theriault, Sr. Vice President & Director. Funds Requested: $75,234. Total Project Cost: $100,312. To improve the production capability of American Public Radio, a nationwide public radio network, by equipping a state-of-the-art audio production facility to replace the rental facility to which it has lost ready access.

File No. 91090 CTN NE Metropolitan Intermediate, 3300 Century Avenue N, White Bear Lake, MN 55110. Signed By: E. Dale Birkeland, Superintendent. Funds Requested: $92,135. Total Project Cost: $184,271. To expand a regional educational cable channel for the northeast metropolitan suburbs of the Twin Cities area, including connection to existing commercial cable systems and the equipping of a studio for the production of educational programming.

File No. 91254 CRB Minnesota Public Radio, 45 East 7th Street, St. Paul, MN 55101. Signed By: Mr. Thomas J. Kigin, Vice President. Funds Requested: $363,027. Total Project Cost: $726,054. To improve the signals of three Minnesota Public Radio stations—KSJN–FM, 91.1 MHz, St. Paul; WSCD–FM, 92.9 MHz, Duluth; and KRSW–FM 91.7 MHz, Worthington/Marshall—by replacing worn-out and obsolete transmitters; also to replace components at 7 locations of the MPR microwave interconnection system; and to improve the production capability of various MPR system stations by replacing worn-out tape recorders and control consoles.

MO (Missouri)

File No. 91005 CTB Public Television 19, Inc., 125 East 31st Street, Kansas City, MO 64108. Signed By: Mr. Robert F. Fuzy, President. Funds Requested: $241,249. Total Project Cost: $482,499. To improve the local production capabilities of public television station KCPT, Ch. 19, Kansas City, MO, by replacing worn-out and obsolete equipment, including videotape machines, a switcher, an editing system, and a portable camera.

File No. 91165 CTN Missouri Western State College, 4525 Downs Drive, St. Joseph, MO 64507. Signed By: Dr. Janet G. Murphy, President. Funds Requested: $394,092. Total Project Cost: $525,457. To establish an interactive ITFS system to serve schools in and around St. Joseph, MO.

File No. 91222 CRB University of Missouri, 4825 Troost, suite 202, Kansas City, MO 64110. Signed By: Mr. Edgar J. Ellyson, Director, Grants/Contracts. Funds Requested: $132,023. Total Project Cost: $176,031. To improve the transmission capabilities of public radio station KCUR–FM, operating on 89.3 MHz, Kansas City, MO, by replacing its obsolete and worn-out transmitter and by replacing its unreliable telephone line-based studio/transmitter link with a microwave STL.

File No. 91229 CRB Northwest Missouri State Univ, Wells Hall, Maryville, MO 64468. Signed By: Dr. Dean L. Hubbard, Pres, Northwest MO State U. Funds Requested: $182,644. Total Project Cost: $243,526. To extend the signal of public radio station KXCV–FM, 90.5 MHz, Maryville, MO, by constructing a repeater station in Chillicothe, MO, to bring first public radio service to 66,818 residents of a 6-county area.

File No. 91233 CRB New Wave Corporation, 915 East Broadway, Columbia, MO 65201. Signed By: Ms. Susan Newstead, General Manager. Funds Requested: $26,831. Total Project Cost: $35,775. To improve the ability of public radio station KOPN–FM, 89.5 MHz, in Columbia, MO, to bring its listeners national programming by installing a microwave link to the satellite downlink at the University of Missouri and by acquiring associated equipment, including demodulators and digital tape recorders.

MS (Mississippl)

File No. 91049 CTN University of Mississippl, University, MS 38677. Signed By: Dr. Michael R. Dingerson, Assoc. Vice Chan./Research. Funds Requested: $470,280. Total Project Cost: $627,041. To expand the services of the Mississippi Educational Television Network (METV) by constructing a full broadcast quality production studio, separate from the existing facility, to provide new instructional/informational programs for distribution by broadcast and ITFS. The facility will be housed at the University of Mississippi and have EFP and ENG capabilities. Equipment request includes cameras, recorders, and field and studio monitors.

File No. 91124 CTB MS Authority for ETV, 3825 Ridgewood Road, Jackson, MS 39211. Signed By: Mr. A. J. Jaeger, Executive Director. Funds Requested: $1,382,337. Total Project Cost: $2,764,675. To improve the service of the Mississippi Authority for Educational Television's statewide network by replacing worn-out transmitters and antennas at WMAE–TV (Booneville); WMAV–TV (Oxford); and WMAW–TV (Meridian). These replacements are part of a comprehensive plan to upgrade the network's services to the state of Mississippi.

MT (Montana)

File No. 91013 CTB Montana Public Television Assn., 501 4th Avenue S.E., Box 503, White Sulphur Springs, MT 59645. Signed By: Ms. Brenda J. Hawkins, Vice President, Mt. Pub. TV. Assn. Funds Requested: $65,250. Total Project Cost: $87,000. To expand and improve the satellite reception capabilities of six well-established noncommercial low power television stations in Hamilton, Pablo, Colstrip, White Sulphur Springs, Plains and Whitehall, MT, by providing each with a steerable C/Ku band downlink that is equipped with an Automated Satellite Receive System (ASRS) package. These C/Ku downlinks will enable the six LPTV sites to access Ku and C band programming from a variety of sources, including the Ku uplink at Montana State University (KUSM–TV) in Bozeman.

File No. 91014 CTB Hot Springs TV District, 100 East Broadway, P.O. Box 259, Hot Springs, MT 59845. Signed By: Mr. Manford Tempero, President, Hot Springs TV Dist. Funds Requested: $67,649. Total Project Cost: $90,198. To activate a noncommercial low power television station in Hot Springs, MT, that would bring first service public television programming to the 1,000 residents in the Flathead Indian Reservation area of northwestern Montana.

File No. 91019 CTB Meagher County Public Television, 501 4th Avenue SE.; Box 503, White Sulphur Springs, MT 59645. Signed By: Ms. Brenda J. Hawkins, Secretary, Board of Directors. Funds Requested: $31,470. Total Project Cost: $41,960. To upgrade and improve the production and post-production capabilities of noncommercial low power television station K57CX operating on Channel 57 in White Sulphur Springs, MT, by providing a video editing system, cameras, a video production switcher and other related items.

File No. 91077 CTB Plevna Public School Trustees, Main Street; Box 158, Plevna, MT 59344. Signed By: Dr. Earl McKinley, Superintendent. Funds Requested: $162,527. Total Project Cost: $216,703. To activate two noncommercial low power television stations in Plevna and Ekalaka, MT, that would provide educational and cultural programming to the 5,000 residents of Fallon and Carter counties in Montana's most geographically isolated region. The project would also construct 2 translators to extend signal coverage into adjacent rural areas of southeast Montana. The Plevna site would be equipped with a satellite downlink and RTS equipment that would enable the system to receive PBS programming.

File No. 91081 CRB Associated Students of Montana, 325 Strand Union Building, Bozeman, MT 59717. Signed By: Mr. Philip H. Charles, IV, General Manager, KGLT–FM. Funds Requested: $14,473. Total Project Cost: $28,973. To upgrade and improve the production facilities of noncommercial radio station KGLT–FM, operating on 91.9 MHz in Bozeman, MT, by replacing worn and obsolete pieces of production equipment.

File No. 91162 CRB Eastern Montana College, 1500 North 30th Street, Billings, MT 59101–0298. Signed By: Mr. Bruce H. Carpenter, President, Eastern Montana Col. Funds Requested: $52,121. Total Project Cost: $69,495. To extend the signal of noncommercial radio station KEMC–FM, operating on 91.7 MHz in Billings, MT, by constructing a system of seven FM translators that will bring first service noncommercial radio to Red Lodge, Chester, Cut Bank, Hinsdale, Malta, Glasgow and Lodgepole/Zortman, MT. The project would also modify the antenna of KEMC–FM translator K203AE in Lewistown, MT.

NC (North Carolina)

File No. 91117 CTB University of North Carolina, 10 T.W. Alexander Dr./Box 14900, Research Triangle Park, NC 27709–4900. Signed By: Mr. John W. Dunlop, Director/UNC Center for PTV. Funds Requested: $746,720. Total Project Cost: $1,746,720. To extend and improve the service of public television station WUNC–TV, Ch.4, in Chapel Hill, NC, by replacing and upgrading worn-out and

obsolete studio and field production equipment, including cameras, monitors, a production switcher, and an audio console. The new equipment will make possible closed captioned productions. WUNC–TV is the main producing station for a 10-station state network.

ND (North Dakota)

File No. 91074 CRB Belcourt School District No. 7, Belcourt, ND 58316. Signed By: Ms. Vicky Short, General Manager. Funds Requested: $39,221. Total Project Cost: $52,295. To improve the facilities of public radio station KEYA–FM, 88.5 MHz in Belcourt, ND. Project would replace a tri-cart machine and turntables and acquire additional test, origination and dissemination equipment that the station has not previously owned. Station provides the only public radio service to approximately 20,000 persons in upper north central North Dakota.

NE (Nebraska)

File No. 91051 CTN Agricultural Satellite Corp., 1800 North 33rd Street, Lincoln, NE 68506. Signed By: Mr. Irvin T. Omtvedt, Chairman. Funds Requested: $1,012,800. Total Project Cost: $1,688,000. To continue the construction of the Agricultural Satellite Corporation network operating from Lincoln, NE, which provides agricultural courses to universities and agricultural extension programs nationally by installing six uplinks, converting four existing downlinks to uplinks and installing ten additional downlinks thus further expanding the service capability of the network.

File No. 91064 CRB NE Educational T/C Commission, 1800 N. 33rd Street, Lincoln, NE 68501–3111. Signed By: Mr. Paul E. Few, Assistant Secretary. Funds Requested: $18,800. Total Project Cost: $37,600. To improve the facilities of public radio station KUCV–FM, 90.9 MHz, in Lincoln, Nebraska. Old, wornout, unservicable equipment will be replaced by a new on-air console, (4) RDAT Player/Recorders, and (4) Microphones. The equipment will support the new eight-station statewide public radio network that serves approximately 854,154 residents.

File No. 91123 CTB NE Educational T/C Commission, 1800 N. 33rd St., Lincoln, NE 68501–3111. Signed By: Mr. Paul E. Few, Assistant Secretary. Funds Requested: $161,150. Total Project Cost: $322,300. To improve the facilities of public television station KXNE–TV, Ch. 19, in Norfolk, NE. Project would replace an obsolete and unreliable GE antenna and acquire necessary associated transmitter test equipment. KXNE–TV serves about 185,521 residents in sixteen counties.

NH (New Hampshire)

File No. 91001 CTB University of New Hampshire, Mast Road, route 155A, POB 1100, Durham, NH 03824. Signed By: Ms. Kathryn B. Cataneo, Director of Research Admin. Funds Requested: $82,500. Total Project Cost: $110,000. To purchase three 1/2" video tape recorders for the New Hampshire Public Television Network. The new VTRs, which will replace old and unreliable equipment, will be located in the Network's main broadcast facility in Durham.

NJ (New Jersey)

File No. 91033 CRB Burlington County College, Pemberton-Browns Mills Road, Pemberton, NJ 08068–1599. Signed By: Mr. Robert C. Messina, Jr., President. Funds Requested: $186,517. Total Project Cost: $254,978. To activate a noncommercial FM station operating on 88.9 MHz in Pemberton, NJ, that would provide locally originated programming for the residents of Burlington County, and would also serve as a learning laboratory for students at Burlington County College.

File No. 91126 CTB NJ Public Broadcasting Authority, 1573 Parkside Avenue, Trenton, NJ 08625–0777. Signed By: Mr. Robert G. Ottenhoff, Executive Director. Funds Requested: $613,855. Total Project Cost: $1,130,760. To improve the distribution capability of the New Jersey Public Broadcasting Authority by replacing a UHF transmitter and test equipment at WNJS–TV, operating on Channel 23 in Camden, NJ. The project would also construct 3 UHF translators that would provide first service noncommercial television to over 92,000 residents of Blairstown, Warren County, and Hunterdon County.

NM (New Mexico)

File No. 91010 CRB New Mexico State University, Jordan St., Milton Hall rm 121, Las Cruces, NM 88003. Signed By: Mr. J. Mack Adams, Acting Associate Dean/Director. Funds Requested: $18,192. Total Project Cost: $45,480. To improve the facilities of public radio station KRWG–FM, 90.7 MHz, in Las Cruces, NM. KRWG–FM will replace deteriorating antenna and failing transmitter exciter. Station serves approximately 250,000 residents of southwestern New Mexico.

File No. 91028 CTB Univ. of NM & Albuq. Pub Schools, 1130 University Blvd. NE, Albuquerque, NM 87102. Signed By: Ms. Ann Powell, Director, Research Admin./UNM. Funds Requested: $188,250. Total Project Cost: $376,500. To improve the services of public television station KNME–TV, Ch. 5, in Albuquerque, NM, by replacing obsolete, wornout equipment and acquiring additional equipment which will allow second language programming for the ethnic minorities and descriptive video for the visually impaired. Equipment being requested includes a backup studio-to-transmitter microwave link, a SAP generator, Beta recorders, a routing switcher and test equipment. KNME–TV provides the only public television service for approximately 1.25 million residents of New Mexico and parts of southern Colorado, eastern Arizona, West Texas and southeast Utah.

File No. 91171 CTB New Mexico State University, Jordan St. Milton Hall 100, Las Cruces, NM 88003. Signed By: Ms. Mary B. Husemoller, Director, Grants & Contracts. Funds Requested: $45,000. Total Project Cost: $90,000. To improve the facilities of public television station KRWG–TV, Ch. 22, in Las Cruces, NM. KRWG–TV will replace seventeen year old aural modulation monitoring system and test signal generator, as well as a master control switcher and TV demodulator both of which are twelve years old. KRWG–TV serves approximately 250,000 residents of Southwestern New Mexico.

NV (Nevada)

File No. 91175 PTB Rural Television System, Inc., 6205A Franktown Road, Carson City, NV 89704. Signed By: Mr. Daniel J. Tone, RTS Administrator. Funds Requested: $84,272. Total Project Cost: $84,272. To plan for the establishment of additional low power Rural Television System (RTS) stations that would provide a first service public television signal to unserved rural areas of the West. Requested funds would be for a full-time RTS planner and related expenses.

File No. 91230 CRB Nevada Public Radio Corporation, 5151 Boulder Highway, Las Vegas, NV 89122. Signed By: Mr. Lamar Marchese, President & General Manager. Funds Requested: $22,009. Total Project Cost: $44,019. To upgrade and improve the production and master control facilities of noncommercial radio station KNPR–FM, operating on 89.5 MHz in Las Vegas, NV, by replacing tape recorders, cart machines and other related equipment.

File No. 91249 CTB Clark County School District, 4210 Channel 10 Drive, Las Vegas, NV 89119. Signed By: Mr. John K. Hill, Director, Television Services. Funds Requested: $435,000. Total Project Cost: $580,000. To extend

the signal of noncommercial television station KLVX–TV, operating on Channel 10 in Las Vegas, NV, by constructing a UHF translator that would bring a first service signal to 1,154 residents of Alamo and Hiko, Nevada. The project would also replace badly worn and obsolete tape machines and master control and test equipment, and upgrade an existing production switcher.

NY (New York)

File No. 91008 CTB WSKG Public Telecommun. Council, 531 Gates Road, Vestal, NY 13850. Signed By: Mr. Michael J. Ziegler, President & CEO. Funds Requested: $354,219. Total Project Cost: $472,292. To replace the 24-year-old transmitter at public television station WSKG–TV, Ch. 46, Binghamton, NY. The project will also purchase stereo and second audio program transmission equipment as well as associated test equipment.

File No. 91029 CTB Educational Broadcasting Corp., 356 West 58th Street, New York, NY 10019. Signed By: Mr. George L. Miles, Jr., Exec. Vice President. Funds Requested: $381,900. Total Project Cost: $763,800. To replace the main transmitter of public television station WNET–TV, Ch.13, New York, NY. The project will also purchase associated test equipment.

File No. 91055 CTB WXXI Public Broadcasting Council, 280 State Street, Rochester, NY 14614. Signed By: Mr. William J. Pearce, President. Funds Requested: $275,000. Total Project Cost: $475,000. To replace four unreliable studio cameras at public television station WXXI–TV, Ch. 21, Rochester, NY.

File No. 91086 CRB Shawangunk Communications, P.O. Box 709, Otisville, NY 10963. Signed By: Mr. Thomas S. Mondell, President. Funds Requested: $64,750. Total Project Cost: $86,333. To establish a noncommercial public radio station to bring a first public radio signal to 282,367 residents of Orange Co., NY, Sussex Co., NJ, and Pike Co., PA. The station, which will operate on 90.1 MHz, will have the call letters WXHD–FM and will be operated as a community radio station.

File No. 91134 CRB In Touch Networks, Inc., 15 West 65th Street, New York, NY 10023. Signed By: Ms. Camille Franzoni, General Manager. Funds Requested: $10,520. Total Project Cost: $14,027. To purchase a satellite receive-only FM earth station to allow In Touch Networks to monitor its signal transmitted by satellite. In Touch Networks provides a radio reading service for the print-handicapped received not only in the greater New York area but also by radio reading services, hospitals, and cable television systems nationwide.

File No. 91169 CTN Nassau Community College, Garden City, NY 11530–6793. Signed By: Mr. Sean A. Fanelli, President. Funds Requested: $138,280. Total Project Cost: $184,373. To establish a video teleconferencing studio at Nassau Community College, Garden City, NY, to be used for a diversity of academic and community purposes. Programming produced at the teleconferencing center will be transmitted via AT&T's fiber optics network.

File No. 91268 CTB New York City Board of Education, 112 Tillary Street, Brooklyn, NY 11201. Signed By: Mr. Philip Lewis, General Manager. Funds Requested: $312,750. Total Project Cost: $417,000. To improve the master control room operations of public television station WNYE–TV, Ch. 25, New York, by replacing old and unreliable equipment. The project will purchase a master control switcher, a character generator, six 1/2" VTRs (for satellite-feed taping), one 1/2" player, a 1" VTR, and a D–2 Recorder.

OH (Ohio)

File No. 91056 CRB Case Western Reserve University, 11220 Bellflower Road, Cleveland, OH 44106. Signed By: Mr. James Henderson, V.P. of Finance & Admin. Funds Requested: $89,239. Total Project Cost: $119,584. To improve the signal of public radio station WRUW–FM, 91.1 MHz, Cleveland, by replacing its transmitter and increasing its effective radiated power from 1 KW to 14.5 KW directional.

File No. 91061 CRB Ohio State University, 2400 Olentangy River Road, Columbus, OH 43210. Signed By: Mr. Dale K. Ouzts, General Manager. Funds Requested: $207,850. Total Project Cost: $415,700. To improve the facilities of public radio station WOSU–FM, 89.7, Columbus, OH, by replacing its transmitter and antenna and various items of studio equipment, including a control console, a routing switcher, audio tape recorders, distribution amplifiers, and audio processing units.

File No. 91088 CRB Oberlin College Student Network, 135 W Lorain St. (Wilder Hall), Oberlin, OH 44074–1081. Signed By: Mr. Erach Screwvala, Station Manager. Funds Requested: $17,454. Total Project Cost: $27,107. To assist noncommercial radio station WOBC–FM, currently operating on 91.5 MHz, Oberlin, to increase its effective radiated power from 44 w to 1750 w. The project will purchase a new transmitter, a new antenna, and radomes. WOBC–FM also intends to change its frequency to 88.3 MHz. The power increase will allow the station to reach over 100,000 additional residents of north-central Ohio.

File No. 91121 CRB Kent State University, 1935 East Main Street, Kent, OH 44242. Signed By: Dr. J. Robert Quatroche, V.P., Institutional Advancement. Funds Requested: $393,005. Total Project Cost: $544,580. To extend the signal of public radio station WKSU–FM, operating on 89.3 MHz, Kent, by constructing two FM repeater stations, one to operate on 91.5 MHz in New Philadelphia, OH, and the other on 89.3 MHz in Wooster, OH. The new stations will bring the first public radio signal to 159,154 persons in those communities. The project will also replace the station's on-air, production control, and news control room equipment.

File No. 91154 CTB Northeastern Ed. TV of Ohio, Inc, 1750 Campus Center Drive, Kent, OH 44240–5191. Signed By: Mr. William E. Glaeser, President & General Manager. Funds Requested: $130,345. Total Project Cost: $260,690. To improve the signal of public television stations WNEO, Ch. 45, in Alliance, OH, and WEAO, Ch. 49, in Akron, OH, by replacing worn-out and obsolete videotape recorders and a processing amplifier, by adding a master control switcher, and by upgrading an existing routing switcher.

File No. 91159 CTB Greater Cincinnati TV Ed. Fdn., 1223 Central Parkway, Cincinnati, OH 45214. Signed By: Mr. W. Wayne Godwin, President & General Manager. Funds Requested: $471,774. Total Project Cost: $943,548. To improve the facilities of public television station WCET–TV, Ch. 48, Cincinnati, OH, by replacing worn-out and obsolete studio cameras, videotape machines, and video cart machines.

File No. 91161 PTB Northern Community Television, 231 Whitehall Drive, Yellow Springs, OH 45387. Signed By: Mr. John W. Robinson, President. Funds Requested: $83,164. Total Project Cost: $83,164. To plan for establishing a noncommercial TV station to provide first local service to Springfield, OH, and surrounding area.

File No. 91182 CRB Antioch University, 795 Livermore, Yellow Springs, OH 45387. Signed By: Ms. Phyllis J. Williams, Sr. Vice Pres. Finan. Affairs. Funds Requested: $138,753. Total Project Cost: $277,507. To improve and extend the signal of public radio station WYSO–FM. 91.3 MHz, Yellow Springs, OH, by replacing and moving an inadequate transmitter so as to extend its service to 341,220 persons in Dayton and neighboring areas. The project also would replace and upgrade

certain items of studio equipment, including a console, audio tape recorders, and CD players, and add some test equipment.

File No. 91243 CTB Greater Dayton Public TV, Inc., 110 South Jefferson Street, Dayton, OH 45402. Signed By: Mr. Jerrold F. Wareham, President & General Manager. Funds Requested: $342,038. Total Project Cost: $684,076. To improve the facilities of public television station WPTD–TV, Ch. 16, Dayton, OH, by replacing basic field and remote production equipment, including editing capability, master control and routing switchers, a character generator, still store, and test and monitoring equipment.

File No. 91247 CTB Ed. TV Assoc. of Metro Cleveland, 4300 Brookpark Road, Cleveland, OH 44134. Signed By: Miss Betty Cope, President and General Manager. Funds Requested: $85,092. Total Project Cost: $170,185. To improve the facilities of public television station WVIZ–TV, Ch. 25, Cleveland, OH, by replacing worn-out and obsolete videotape recorders.

OR (Oregon)

File No. 91192 CRB Mt. Hood Community College, 26000 S.E. Stark Street, Gresham, OR 97030. Signed By: Mr. Gary Nichols, Dean of Administrative Services. Funds Requested: $89,793. Total Project Cost: $179,587. To upgrade the production capability of public radio station KMHD–FM operating on 89.1 Mhz, Gresham, OR, by replacing obsolete master control, production studio, and news facilities and converting the STL and monitoring equipment to stereo to deliver improved programming to 1,400,000 residents of the Portland area.

File No. 91258 PTN Capital Community Television, 2135 Fairgrounds Rd NE., PO 7664, Salem, OR 97303–7664. Signed By: Ms. Jane Cummins, President, CCTV Board. Funds Requested: $63,875. Total Project Cost: $92,375. To plan for the development of a statewide cable network for Oregon which would provide live programming from the Oregon State Legislature on community access cable television channels.

PA (Pennsylvania)

File No. 91002 CTB Pennsylvania State University, 202 Wagner Building, University Park, PA 16802. Signed By: Mr. Richard E. Grubb, Sr. Vice President & Dean. Funds Requested: $80,902. Total Project Cost: $161,805. To purchase a production switcher and master control room switcher for public television station WPSX–TV, which operates on Ch. 3, University Park, PA. The new equipment would replace a worn-out and obsolete 17-year-old combination switcher.

File No. 91156 CRB Cabrini College, 610 King of Prussia Road, Radnor, PA 19087–3699. Signed By: Sr. Eileen Currie, MSC, President. Funds Requested: $31,506. Total Project Cost: $42,009. To improve the production capability of student radio stations WYBF–FM and WXVU–FM, operating jointly on 89.1 Mhz Villanova, PA, by replacing obsolete studio and test equipment to continue to serve the residents of the Philadelphia area.

File No. 91157 CTB WHYY, Inc., 150 North 6th Street, Philadelphia, PA 19106. Signed By: Mr. Frederick Breitenfeld, Jr., President. Funds Requested: $534,206. Total Project Cost: $1,068,212. To improve the signal of public television station WHYY–TV, Ch. 12, Philadelphia, PA, by replacing its worn-out, obsolete, and malfunctioning transmission system, including transmitter, antenna, transmission line, processing, monitoring, and test equipment.

File No. 91189 CRB Temple University, 100 Annenberg Hall, Philadelphia, PA 19122. Signed By: Mr. Jack Freeman, Executive Vice President. Funds Requested: $213,329. Total Project Cost: $328,198. To provide 1st public radio service to Ephrata/Lebanon, PA, and Ocean City, NJ, through construction of FM repeater stations; to provide 1st English-language service to Lancaster, PA, through construction of an FM translator; to provide service to York, PA, through an FM translator to rebroadcast WJAZ (Summerdale/Harrisburg); to upgrade existing translators in Reading and Allentown; and to construct production/broadcast studios at WJAZ (Summerdale/Harrisburg).

File No. 91200 CRB WHYY, Inc., 150 North 6th Street, Philadelphia, PA 19106. Signed By: Mr. Frederick Breitenfeld, Jr., President. Funds Requested: $140,602. Total Project Cost: $281,204. To improve the signal of public radio station WHYY–FM 90.9 MHz, Philadelphia, PA, by replacing its worn-out 20-year-old transmitter and associated equipment, including transmission line, monitoring, processing, and test equipment.

File No. 91241 CTN Town Council of Bloomsburg, PA, 301 East Main Street, Bloomsburg, PA 17815. Signed By: Mr. George H. Hemingway, Mayor. Funds Requested: $634,838. Total Project Cost: $845,450. To construct a high capacity digital microwave link between Bloomsburg and Harrisburg, PA. The project would also equip a total of 3 studio classrooms at Bloomsburg University, Bloomsburg Town Hall, and the Bloomsburg Area School District, and relocate an ITFS tower at Bloomsburg University.

File No. 91277 CRB Lehigh Valley Cmnty Broad. Assoc, 1023 Linden, Allentown, PA 18102. Signed By: Ms. Cheryl Haughney, President. Funds Requested: $132,172. Total Project Cost: $176,230. To establish a noncommercial radio station to bring the first public radio service to 213,709 residents of the Allentown/Lehigh Valley area. The newstation will operate on 89.3 MHz with an effective radiated power of 120 w.

PR (Puerto Rico)

File No. 91063 CTB Fundacion Educ. Ana G. Mendez, State Road 176 KM 0.3, Cupey, Rio Piedras, PR 00928–1404. Signed By: Mr. Jose F. Mendez, President. Funds Requested: $65,000. Total Project Cost: $130,000. To improve the transmission capability of public television station WMTJ–TV channel 40 Rio Piedras, PR, by replacing an obsolete master control switcher, video tape recorders and cameras to continue programming service to 2,500,000 residents of Puerto Rico.

RI (Rhode Island)

File No. 91027 CRB IN-SIGHT, 43 Jefferson Boulevard, Warwick, RI 02888. Signed By: Ms. Judith T. Smith, President. Funds Requested: $55,699. Total Project Cost: $74,265. To construct two new production studios for In-Sight Radio, a radio reading service for the print-handicapped with headquarters in Warwick, RI. The new studios will allow In-Sight to expand its programming day by 25 percent. The project will also purchase 350 SCA Receivers and seven Rebroadcast FM Tuners. The latter, when connected to cable TV systems, will triple In-Sight's current listener base of 95,000.

SC (South Carolina)

File No. 91009 CTB South Carolina ETV Commission, 2712 Millwood Ave, Columbia, SC 29205. Signed By: Mr. Henry Cauthen, President. Funds Requested: $543,600. Total Project Cost: $1,132,517. To improve the service of the South Carolina Educational Television Network by replacing obsolete and worn-out master control switching and monitoring equipment, including a routing switcher and master control system.

SD (South Dakota)

File No. 91158 CTB SD Board of Dir. for Educ. T/C, 414 East Clark Street, Vermillion, SD 57069. Signed By: Mr. Larry D. Miller, Deputy Executive Director. Funds Requested: $255,053.

Total Project Cost: $510,106. To improve the facilities of public television station, KUSD–TV, Ch. 2, in Vermillion by replacing a 1967 RCA transmitter and related equipment and acquiring some test equipment. KUSD–TV is the flagship station for the South Dakota public TV network and its signal covers about 29% of the state's population. In addition, will replace a variety of production equipment including network delay video recorders and portable field recorders.

File No. 91250 CRB SD Board of Dir. for Educ. T/C, 414 East Clark Street, Vermillion, SD 57069. Signed By: Mr. Larry Miller, Deputy Executive Director. Funds Requested: $93,750. Total Project Cost: $187,500. To improve the facilities of public radio stations KESD–FM, 88.3 MHz, in Brookings and KUSD–FM, 89.7 MHz, in Vermillion. Project would install a new transmitter for KESD–FM and a new transmitter and antenna at KUSD–FM, the network's flagship station. In addition, a new control board would be purchased at KUSD–FM. The new KUSD–FM antenna will be circularly polarized. Project would improve the signal to east central and southeastern South Dakota.

File No. 91252 CTB Sitanka Tiwa'he Foundation, Rural Route 1, Box 5A, Pine Ridge, SD 57770. Signed By: Mr. Leonard Little Finger, President. Funds Requested: $216,273. Total Project Cost: $288,365. To activate a new Low Power Television station, K29CG, on Ch. 29, In Pine Ridge, SD. Station will have local origination capability and will also re-broadcast the signal of the South Dakota Public Television Network. K29CG will serve the Oglala Lakota Sioux tribe residing on the Pine Ridge Indian Reservation in southwest South Dakota. Station will provide a public television signal to approximately 19,000 residents currently without an acceptable public TV signal.

File No. 91267 CTB SD Board of Dir. for Educ. T/C, 414 East Clark Street, Vermillion, SD 57069. Signed By: Mr. Larry Miller, Deputy Executive Director. Funds Requested: $140,962. Total Project Cost: $187,950. To activate a new 1,000 watt public television station on Ch. 23, in Sioux Falls, SD. Station will repeat the South Dakota Public Television Network and will improve the signal coverage in the Sioux Falls area.

TN (Tennessee)

File No. 91034 CTB East TN Public Comm. Corp., 209 Communications Building, Knoxville, TN 37996–0321. Signed By: Mr. Richard W. Meschendorf, Treasurer. Funds Requested: $236,082. Total Project Cost: $472,165. To improve the service of public television stations WSJK–TV, Ch. 2 (Sneedville, TN) and WKOP–TV (Knoxville, TN) by constructing a state-of-the-art television post-production editing facility and a basic state-of-the-art electronic field production capability.

File No. 91035 CTB Greater Chattanooga Public TV, 4411 Amnicola Highway, Chattanooga, TN 37406. Signed By: Mr. Howard McNeese, President & General Manager. Funds Requested: $121,425. Total Project Cost: $251,350. To improve the service of public television station WTCI–TV, Ch. 45, Chattanooga, TN, by replacing old, obsolete equipment, including a router system, frame synchronizers, studio recorders, and related equipment, and by adding stereo capabilities to its audio system. WTCI serves approximately 730,000 residents of the Chattanooga area, as well as parts of Alabama and Georgia.

File No. 91098 CRB Univ. of Tenn. at Chattanooga, 615 McCallie Avenue, Chattanooga, TN 37403–2598. Signed By: Mr. Frederick W. Obear, Chancellor. Funds Requested: $34,863. Total Project Cost: $69,726. To improve the service of public radio station WUTC–FM, 88.1 Mhz, Chattanooga, TN, by replacing obsolete production equipment, including an audio console, tape recorders, CD players, and related equipment. The station's current equipment was purchased in 1981; lacking the necessary capacity for multitrack recording, WUTC finds itself increasingly unable to maintain a full production schedule.

File No. 91108 CTB Mid-South Public Comm. Found., 900 Getwell, Memphis, TN 38111. Signed By: Mr. Michael J. To improve the, President & CEO/ Treasurer. Funds Requested: $38,500. Total Project Cost: $77,000. To improve the service of public television station WKNO–TV, Ch. 10, in Memphis, TN, by replacing obsolete and worn-out 3/4" videotape recorders with state-of-the-art component 1/2" machines. WKNO–TV is the sole public television service for the Memphis area and serves 1,584,000 viewers in western Tennessee, northern Mississippi, eastern Arkansas, and extreme southeast Missouri.

File No. 91109 CTB Mid-South Public Comm. Found., 900 Getwell, Memphis, TN 38111. Signed By: Mr. Michael J. To improve the, President & CEO/ Treasurer. Funds Requested: $105,000. Total Project Cost: $210,000. To improve the service of public television station WKNO–TV, Ch. 10, in Memphis, TN, by purchasing a routing and master control switcher. Currently no routing switcher exists, and all signal routing is accomplished through the use of a patch panel; the existing arrangement is highly unreliable for stereo and Secondary Audio Program (SAP) broadcasting. WKNO serves 1,584,000 viewers in west Tennessee, northern Mississippi, east Arkansas, and southeast Missouri.

File No. 91198 CRB Memphis/Shelby County Pub. Libr., 1850 Peabody, Memphis, TN 38104. Signed By: Ms. Judith A. Drescher, Director of Library. Funds Requested: $49,528. Total Project Cost: $92,075. To improve and extend the service of the Memphis/Shelby County Public Library and Information Center's radio reading service by replacing monaural recording equipment with stereo equipment and upgrading the Center's transmission facilities. The service will be carried on the Library's new Class A FM radio station, to operate at 89.3 Mhz. The new station will extend the reading service to 331,000 additional print-handicapped listeners.

File No. 91206 CTB West Tennessee Public TV Council, Clement Hall, Martin, TN 38237. Signed By: Dr. Mike Branstetter, General Manager. Funds Requested: $200,121. Total Project Cost: $400,242. To improve the service of public television station WLJT–TV, Ch. 11, Lexington, TN, by installing a hot-standby STL to support the new STL provided by NTIA Award No. 47–02–90275. The project will also replace limited video editing facilities with a more sophisticated editing system, and will add a field production unit, engineering test equipment, video master control equipment, and a Secondary Audio Program (SAP) generator.

File No. 91220 CTB Upper Cumberland Brdsctg Council, SW. Corner Tucker Stadium, Cookeville, TN 38501. Signed By: Mr. Richard L. Castle, Jr., President & General Manager. Funds Requested: $120,000. Total Project Cost: $240,000. To improve the service of public television station WCTE–TV, Ch. 22, Cookeville, TN, by replacing outmoded 3/4" videotape recording equipment with a Beta SP format editing system and recorders, and by replacing the station's character generator with a state-of-the-art graphics and paint system. WCTE–TV serves approximately 373,000 viewers in Cookeville and north-central Tennessee.

File No. 91224 CTN Pellissippi State Technical Coll, 10915 Hardin Valley Road, Knoxville, TN 37933–0990. Signed By: Mr. J.L. Goins, President. Funds Requested: $88,824. Total Project Cost: $177,648. To activate an ITFS system to extend the instructional capabilities of Pellissippi State Technical Community College to off-campus receive sites, including high schools and businesses.

Specific equipment requested includes an electronic classroom and associated origination equipment. This project is the result of an FY90 PTFP planning award. Approximately 15,000 homes and 22 receive sites will be reached.

TX (Texas)

File No. 91082 CTB Alamo Public Telecomm. Council, 801 South Bowie, San Antonio, TX 78205–3298. Signed By: Ms. Joanne Winik, President & General Manager. Funds Requested: $120,094. Total Project Cost: $240,188. To improve the facilities of public television station KLRN–TV, Ch. 9, in San Antonio, TX. KLRN–TV seeks to implement its Secondary Audio Program (SAP) in order to provide a Spanish audio channel to its Hispanic audience. In addition, station will replace old, wornout equipment by acquiring a new still store, video tape machines and test equipment. Station serves in excess of 2 million residents by over the air broadcasting or carriage via cable television.

File No. 91122 CTN Austin Community College Dist., 5930 Middle Fiskville Rd., Austin, TX 78752. Signed By: Mr. Dan Angel, President. Funds Requested: $409,809. Total Project Cost: $819,618. To establish a new Instructional Television Fixed Service (ITFS) station for the high school and adult populations in the greater Austin area. The four-channel system will initially have a master control, three origination classrooms and have nine high schools and seven cable television companies receiving the programming. The college will provide two-way audio for the students to interact with the instructor.

File No. 91148 CRB Austin Council for the Blind, 8607 Parkfield, Austin, TX 78758. Signed By: Mr. Edward Guerra, President. Funds Requested: $72,450. Total Project Cost: $103,500. To acquire 1,500 FM sub-carrier receivers to allow the reception of programming for the print-handicapped in Austin and the surrounding eighteen counties. The reading service uses the facilities of public radio station KUT–FM, 90.5 MHz, in Austin.

File No. 91149 CTB Texas A&M University, Building 519, Houston Street, College Station, TX 77843. Signed By: Mr. E. Dean Gage, Provost & VP for Academic Aff. Funds Requested: $37,000. Total Project Cost: $74,000. To improve the facilities of public television station, KAMU–TV, Ch. 15, in College Station by replacing origination equipment. Equipment being replaced consists of a seven year old character generator and acquisition of proper keyers for a Grass Valley 200 switcher which was funded in 1989, (PTFP Grant No. 48–02–89222), without the proper modules. The Borderline Generators originally purchased will be returned to the vendor for credit and the supplemental grant funds will be used to purchase the correct switcher equipment.

File No. 91151 CTB Amarillo Junior College District, 2408 S. Jackson, Amarillo, TX 79178. Signed By: Mr. W.L. Prather, VP Business & Development. Funds Requested: $104,980. Total Project Cost: $174,967. To improve the facilities of public television station KACV–TV, Ch. 2, in Amarillo, TX. KACV–TV will acquire additional dissemination, origination and test equipment including a video processing amp, ¾" videotape recorder, character generator, SAP generator, routing switch expansion equipment and an oscilloscope and cart. Equipment will increase the operational capabilities of this PBS affiliate that serves 330,000 residents of the north Texas Panhandle.

File No. 91152 CRB Texas A&M University, Building 519, Houston Street, College Station, TX 77843. Signed By: Mr. E. Dean Gage, Provost & VP for Academic Aff. Funds Requested: $68,000. Total Project Cost: $136,000. To expand the facilities of public radio station KAMU–FM, on 90.9 MHz, in College Station, TX. KAMU–FM seeks a new transmitter, antenna and transmission line to increase the station's power from 3.21 Kw to 35 Kw. KAMU–FM will also acquire three new CD players, three DAT recorders and a new routing switcher as well as an audio test set. Project would provide a first public radio signal to an estimated 98,420 residents of a seven county area.

File No. 91170 CRB Alvin Community College, 3110 Mustang Road, Alvin, TX 77511. Signed By: Mr. A. Rodney Allbright, President. Funds Requested: $49,193. Total Project Cost: $71,193. To expand the facilities of public radio station KACC–FM, on 89.7 MHz, in Alvin, TX, by increasing the station's power. KACC–FM would increase power from 800 watts to 8,000 watts to provide improved minority educational and communications services to the minority population within its proposed service area. Station currently covers about 38,000 residents and will add an additional 485,000 potential listeners to its coverage area.

File No. 91176 CRB North Texas Public Broadcasting, 3000 Harry Hines Boulevard, Dallas, TX 75201. Signed By: Mr. Richard J. Meyer, President. Funds Requested: $64,025. Total Project Cost: $128,051. To improve the facilities of public radio station KERA–FM, on 90.1 MHz, in Dallas by acquiring additional origination equipment. Equipment being requested includes a digital editing system, digital workstation, cart machines and recording equipment for master control. Equipment will improve staff efficiency, improve quality of productions and allow KERA–FM to compete on local and national levels.

File No. 91183 CRB Amarillo Junior College District, 2408 S. Jackson, Amarillo, TX 79178. Signed By: Mr. W.L. Prather, VP Business & Development. Funds Requested: $20,202. Total Project Cost: $26,937. To improve the facilities of public radio station KACV–FM, on 89.9 MHz, in Amarillo. Project would replace a studio-to-transmitter link that no longer meets FCC specifications and an EBS monitor that is damaged. In addition, station will acquire test equipment that will replace the borrowed or rented test equipment that it now uses. KACV–FM provides the only local public radio service to approximately 330,000 residents of the northern Texas Panhandle.

File No. 91193 CRB San Antonio College, 1300 San Pedro, San Antonio, TX 78212–4299. Signed By: Dr. Ivory Nelson, Chancellor. Funds Requested: $146,794. Total Project Cost: $203,880. To establish a new radio reading service using the sub-carrier of public radio station KSYM–FM, on 90.1 MHz, in San Antonio, TX. The reading service is being established in cooperation with the Alamo Council of the Blind which will serve the print-impaired in Bexar County, TX. In addition to establishing the service, the applicant seeks 1,000 SCA radio receivers for use by the print-impaired.

File No. 91196 CTB Capital of TX Public T/C Council, 2504–B Whitis Street, Austin, TX 78705. Signed By: Mr. Bill Arhos, President/Station Manager. Funds Requested: $166,987. Total Project Cost: $333,975. To improve the facilities of public television station KLRU–TV, Ch. 18, in Austin, TX, by acquiring additional on-line editing equipment and SAP (Secondary Audio Program) equipment to allow the station to provide Spanish language audio and descriptive video services for the visually impaired.

File No. 91204 CTB North Texas Public Broadcasting, 3000 Harry Hines Boulevard, Dallas, TX 75201. Signed By: Mr. Richard J. Meyer, President. Funds Requested: $180,600. Total Project Cost: $361,200. To improve the facilities of public television station KERA–TV, Ch. 13, in Dallas. KERA–TV will replace a production switcher, an audio console and an intercom system that are outdated and require constant maintenance. Equipment will also be

used by the applicant's other station, KDTN–TV, licensed to Denton, TX.

File No. 91215 CRB RGV Educ. Broadcasting, Inc., 1701 Tennessee Avenue, Harlingen, TX 78550. Signed By: Mr. Darrell Rowlett, General Manager/CEO. Funds Requested: $137,641. Total Project Cost: $183,522. To activate a new public radio station on 88.1 MHz in McAllen, TX. Station will provide the first public radio signal to approximately 182,623 residents of Hidalgo County and surrounding areas. Project will include dissemination, origination and test equipment; thus station will have a local origination capacity. Pan American University and Texas Southmost College will be given access to the station as a part of local involvement.

File No. 91242 CRB Texas Tech University, 102 Mass Communications Bldg., Lubbock, TX 79409. Signed By: Mr. Robert Sweazy, Vice Provost for Research. Funds Requested: $44,700. Total Project Cost: $59,600. To improve and expand the facilities of public radio station KOHM–FM, on 89.1 MHz, in Lubbock, TX, by raising the antenna height. In addition, station will acquire a new STL, a satellite downlink with associated equipment and three cartridge tape machines. The station's power will increase from 20 Kw at 148 ft. to 50 Kw at 172 ft and allow it to better serve approximately 250,000 in its service area.

File No. 91246 CTB Odessa Junior College District, 201 West University, Odessa, TX 79764. Signed By: Dr. Philip Speegle, President. Funds Requested: $214,560. Total Project Cost: $429,120. To improve the facilities of public television station KOCV–TV, Ch. 36, in Odessa, TX. Project will replace 3/4" tape machines and editing equipment to improve on-air quality. In addition, KOCV–TV seeks a 1/2" recording unit to improve its local productions.

UT (Utah)

File No. 91195 CTB University of Utah, Building 002, Salt Lake City, UT 84112. Signed By: Mr. Ted R. Capener, VP, University Relations. Funds Requested: $712,023. Total Project Cost: $949,364. To extend EDNET and KULC–TV services to 40,100 presently unserved residents of northeastern and west-central Utah through the construction of 5 television translators and microwave links.

VA (Virginia)

File No. 91016 CTB Shenandoah Valley ETV Corp., 298 Port Republic Road, Harrisonburg, VA 22801. Signed By: Mr. Arthur E. Albrecht, President. Funds Requested: $22,385. Total Project Cost: $44,770. To improve the service of public television station WVPT–TV, Ch. 51, in Harrisonburg, VA, by replacing an obsolete studio/master control character generator. WVPT–TV provides first public television service to 227,106 persons in a 4-county area, and to 144,650 persons in 12 additional counties and municipalities by cable and translator.

File No. 91053 CTB Hampton Roads. Educ. T/C Assoc., 5200 Hampton Boulevard, Norfolk, VA 23508. Signed By: Mr. John R. Morison, President & General Manager. Funds Requested: $48,183. Total Project Cost: $80,305. To improve the service of public television station WHRO–TV, Ch. 15 in Norfolk, VA, by replacing obsolete and worn-out production and origination equipment, including a still store and studio-to-transmitter (STL) microwave system. WHRO–TV is the only public television station in southeastern Virginia, and serves an estimated 1.6 million viewers.

File No. 91062 CRB James Madison University, 821 South Main Street, Harrisonburg, VA 22807. Signed By: Ms. Brenda Hankey, General Manager. Funds Requested: $93,889. Total Project Cost: $125,186. To extend the signal of public radio station WMRA–FM, 90.7 MHz, in Harrisonburg, VA, by installing a non-directional antenna, a co-channel booster on 90.7 MHz in Luray, VA, and a repeater transmitter on 89.9 MHz in Lexington, VA. Project will serve portions of northwest Virginia, as well as portions of southeast West Virginia with a first-service public radio signal.

File No. 91099 CTB Blue Ridge Public TV, Inc., 1215 McNeill Drive SW., Roanoke, VA 24015. Signed By: Mr. Larry A. Dyer, Exec. V.P. & General Manager. Funds Requested: $275,000. Total Project Cost: $550,000. To improve the facilities of public television station WBRA–TV, Ch. 15, in Roanoke, VA. WBRA–TV will replace wornout and obsolete studio production and maintenance/test equipment. Among the items requested are three studio camera systems and pedestals, a production switcher and accessories, a frame synchronizer and amplifier as well as a variety of maintenance and test equipment. Station provides the only public television service to approximately 1.5 million residents of southwest Virginia.

File No. 91120 CRB Greater Wash. Ed. T/C Assoc., 3700 S. Four Mile Run Drive, Arlington, VA 22206–2304. Signed By: Mr. Tom Livingston, Vice President/General Manager. Funds Requested: $145,143. Total Project Cost: $193,524. To extend the service of public radio station WETA–FM, 90.9 MHz, serving Washington, DC, Northern Virginia, and Eastern Maryland, by constructing a 900 watt directional FM station, to operate as an unmanned repeater station, to provide first public radio service to 210,000 residents of an area which includes Hagerstown, MD, and Chambersburg and Gettysburg, PA.

File No. 91135 CTB Central VA Educ. T/C Corp., 25 Sesame Street, Richmond, VA 23235. Signed By: Mr. Richard E. Hall, Vice President, Broadcasting. Funds Requested: $168,029. Total Project Cost: $336,058. To improve the service of public television station WCVE–TV, Ch. 23, serving the Richmond, VA, area and providing network services to 5 public television stations and 4 universities throughout the state by replacing an obsolete master control routing switcher, monitors, and an air switcher and other origination equipment.

File No. 91166 CRB Norfolk State University, 2401 Corprew Avenue, Norfolk, VA 23504. Signed By: Mr. Harrison B. Wilson, President. Funds Requested: $244,248. Total Project Cost: $325,664. To improve and expand the service of radio station WNSB–FM, 91.1 MHz, in Norfolk, VA. WNSB–FM will replace an aging transmitter, antenna, STL and related dissemination equipment, as well as studio production equipment, including four audio consoles. WNSB–FM is a university licensee and, in addition to its programming, provides hands-on training to students majoring in Mass Communications. Station power will increase from 1,000 watts to 18 kilowatts.

File No. 91178 CRB Hampton Roads Educ. T/C Assoc., 5200 Hampton Boulevard, Norfolk, VA 23508. Signed By: Mr. John R. Morison, President and General Manager. Funds Requested: $45,144. Total Project Cost: $64,492. To improve the facilities of public radio station WHRO–FM, 90.3 MHz, in Norfolk, VA, by replacing wornout equipment. Station will acquire a back-up studio-to-transmitter link, stereo generator, three microphones and a new production console as well as a transfer panel, and a power divider. Station serves approximately 1.6 million people in southeastern Virginia and northeastern North Carolina.

File No. 91181 CRB Virginia Tech Foundation, Inc., 4235 Electric Road, SW., Roanoke, VA 24014. Signed By: Mr. Charles Forbes, Executive Vice President. Funds Requested: $180,000. Total Project Cost: $360,023. To improve the service of public radio station WVTF–FM, 89.1 MHz, Roanoke, VA, by replacing an aging and inefficient 16-year-old transmitter, along with an antenna, tower, and related equipment. WVTF–FM is the only public radio

service in central and southwest Virginia, and reaches more than a million listeners in a 28-county area, along with residents of north central North Carolina and eastern West Virginia.

VT (Vermont)

File No. 91130 CTB Vermont ETV, Inc., 88 Ethan Allen Avenue, Colchester, VT 05446–3129. Signed By: Mr. John E. King, V.P., Finance & Admin. Funds Requested: $223,710. Total Project Cost: $298,281. To replace the 24-year-old antenna and transmission line of public television repeater station WVER–TV, Ch. 28, in Castleton, VT, which is near Rutland. Station WVER–TV is part of the Vermont state public TV system. Its signal reaches over 266,000 people in southern Vermont.

WA (Washington)

File No. 91106 CTB KCTS Association, 401 Mercer Street, Seattle, WA 98109. Signed By: Mr. Burnill F. Clark, President & CEO. Funds Requested: $277,830. Total Project Cost: $555,660. To augment the distribution capability of public television station KCTS–TV operating on channel 9 Seattle, WA, by constructing a mobile Ku band satellite uplink to deliver training and continuing education services to educational institutions, businesses and the general public in the Seattle area and nationwide.

File No. 91107 PTB KCTS Association, 401 Mercer Street, Seattle, WA 98109. Signed By: Mr. Burnill F. Clark, President & CEO. Funds Requested: $57,500. Total Project Cost: $95,500. To plan for the extension of the signal of public television station KCTS–TV operating on channel 9 Seattle, WA, to 272,000 unserved residents of San Juan, Island, Whatcom and Skagit Counties.

File No. 91197 CRB Western Washington University, 516 High Street, Bellingham, WA 98225–9106. Signed By: Mr. Jack Smith, Director, Viking Union. Funds Requested: $16,734. Total Project Cost: $33,468. To improve the programming capability of public radio station KUGS–FM operating on 89.3 MHz Bellingham, WA, by installing a satellite dish to receive national programming to better serve 120,000 residents of Whatcom, Skagit and Island Counties.

File No. 91208 CTB Washington State University, Administration Drive, room 382, Pullman, WA 99164–2530. Signed By: Mr. Robert Smith, Vice Provost for Research. Funds Requested: $374,500. Total Project Cost: $499,500. To upgrade the production and transmission capability of public television station KWSU–TV operating on channel 10, Pullman, WA, by replacing obsolete VTR units for studio and field production, master control and test equipment to continue to provide programming to 634,000 residents of eastern Washington, northern Idaho and northeastern Oregon.

File No. 91209 CRB Washington State University, Administration Drive, Room 382, Pullman, WA 99164–2530. Signed By: Mr. Robert Smith, Vice Provost for Research. Funds Requested: $89,900. Total Project Cost: $119,900. To improve the production and transmission capability of public radio station KRFA–FM, operating on 91.7 Mhz Moscow, ID, by replacing an obsolete transmitter, antenna, feed line, STL, monitoring equipment and related studio and test equipment to continue to provide programming to 205,000 residents of eastern Washington and northern Idaho.

WI (Wisconsin)

File No. 91042 CTB University of Wisconsin, 821 University Ave., Madison, WI 53706. Signed By: Mr. Gerald L. Praedel, Admin. Officer Research Admin. Funds Requested: $75,000. Total Project Cost: $150,000. To improve the facilities of public television station WHA–TV, Ch. 21, Madison, WI, by replacing worn-out and obsolete field production cameras and videotape recorders.

File No. 91172 PTN Wisconsin Ed. Communications Bd., 3319 West Beltline Highway, Madison, WI 53713–4296. Signed By: Mr. Paul M. Norton, Executive Director. Funds Requested: $135,204. Total Project Cost: $466,963. To conduct a comprehensive statewide educational telecommunications planning study and analysis of the state of Wisconsin to guide development of distance education throughout the state.

WV (West Virginia)

File No. 91083 CTB WV Educ. Broadcasting Authority, Station Drive, Beaver, WV 25813. Signed By: Mr. Kenneth A. Jarvis, Executive Director. Funds Requested: $276,778. Total Project Cost: $553,556. To improve the service of public television station WSWP–TV, Ch. 9 in Grandview, WV, by replacing four 2" videotape recorders with two 1" recorders, and replacing a 10-year-old ¾" editing suite with half-inch editing equipment and related equipment.

File No. 91191 CRB Alderson Broaddus College, Philippi, WV 26416. Signed By: Mr. W. Christian Sizemore, President. Funds Requested: $86,356. Total Project Cost: $115,142. To extend the service of public radio station WQAB–FM, 91.3 MHz, Philippi, WV, to include Barbour County, and portions of Taylor, Lewis, Harrison, and Upshur Counties in north-central WV, by replacing a transmitter, tower, and related equipment. The power increase will bring first service to approximately 11,700 persons, and additional service to 79,445 persons already served by WVPW–FM (Buckhannon) and WVPM (Morgantown).

File No. 91256 PTN WV University Research Corp, 213 Glennlock Hall, Morgantown, WV 26506. Signed By: Mr. William Reeves, Secretary, WVURC. Funds Requested: $27,174. Total Project Cost: $27,174. To plan for the establishment of a satellite uplink facility at West Virginia University and integration of the uplink into a campus-wide telecommunications network.

File No. 91276 CTN James Rumsey Voc. Tech. Center, Rt. 6 Box 268, Martinsburg, WV 25401. Signed By: Mr. James C. Spears, Director. Funds Requested: $674,294. Total Project Cost: $899,059. To establish a consortium for teaching vocational and technical skills throughout the state via interactive satellite telecommunications. Low cost, interactive teleports installed at five fixed sites—plus a transportable system—will interconnect for broadcast throughout the state via an agreement with the West Virginia Educational Network. The system is based on VSAT (Very Small Aperture Terminals) at each site linked with the Ed-Net satellite.

Deferred Applications:

AK (Alaska)

File No. 91114 PTB, Old File Nos. 90289, Capital Community Broadcasting Inc., Juneau, AK.

AL (Alabama)

File No. 91097 CRB, Old File Nos. 90041, 89279, 88303, 77002, 66013, Sable Community Broadcstng Corp., Hobson City, AL.

File No. 91207 CRB, Old File Nos. 90279, Alabama ETV Commission, Birmingham, AL.

AZ (Arizona)

File No. 91066 CRB, Old File Nos. 90250, University of Arizona, Tucson, AZ.

CA (California)

File No. 91041 CTB, Old File Nos. 90236, 89109, Community TV of Southern CA, Los Angeles, CA.

File No. 91092 CRB, Old File Nos. 90122, Lassen Friends of Public Radio, Susanville, CA.

File No. 91145 CTB, Old File Nos. 90152, KQED, Inc., San Francisco, CA.

File No. 91185 CTB, Old File Nos. 90124, Rural CA Broadcasting Corp, Rohnert Park, CA.

File No. 91214 CTB, Old File Nos. 90052, 89229, KTEH–TV Foundation, San Jose, CA.

CO (Colorado)

File No. 91080 CTB, Old File Nos. 90261, Council for Public Television, Denver, CO.
File No. 91138 CTB, Old File Nos. 90287, Region 10 League for Economic Assistance, Montrose, CO.
File No. 91260 CTB, Old File Nos. 90224, University of Southern Colorado, Pueblo, CO.

CT (Connecticut)

File No. 91239 CTB, Old File Nos. 90079, Connecticut Public Broadcasting, Inc., Hartford, CT.

FL (Florida)

File No. 91155 CTB, Old File Nos. 90182, Florida State University, Tallahassee, FL.
File No. 91174 CRB, Old File Nos. 90282, Florida State University, Tallahassee, FL.
File No. 91210 CTB, Old File Nos. 90109, Keys Educators Broadcasting, Hollywood, FL.
File No. 91217 CRB, Old File Nos. 90035, South FL Public Telecomm., Inc., Boynton Beach, FL.
File No. 91221 CTB, Old File Nos. 90070, 89106, WJCT, Inc., Jacksonville, FL.
File No. 91266 CRB, Old File Nos. 90262, 89006, 8016, 7135, University of Central Florida, Orlando, FL.

GA (Georgia)

File No. 91101 CRB, Old File Nos. 90219, 89122, 88220, 77062, Atlanta Board of Education, Atlanta, GA.

IA (Iowa)

File No. 91032 CRB, Old File Nos. 90011, University of Northern Iowa, Cedar Falls, IA.
File No. 91040 CRB, Old File Nos. 90012, University of Northern Iowa, Cedar Falls, IA.
File No. 91075 CRB, Old File Nos. 90218, Minority Communications, Inc., Des Moines, IA.
File No. 91076 CTN, Old File Nos. 90231, 89185, 8049, 7174, 6162, Eastern IA Comnty College Dist., Davenport, IA.

IL (Illinois)

File No. 91006 CTB, Old File Nos. 90034, 89048, Black Hawk College, Moline, IL.
File No. 91218 CTB, Old File Nos. 90132, Chicago Educational TV Assoc., Chicago, IL.

IN (Indiana)

File No. 91017 CRB, Old File Nos. 90115, 89197, Metro. Indianapolis Public Broadcasting, Inc., Indianapolis, IN.
File No. 91018 CTB, Old File Nos. 90102, Metro. Indianapolis Public Broadcasting, Inc., Indianapolis, IN.
File No. 91112 CTB, Old File Nos. 90193, Indiana University, Bloomington, IN.
File No. 91212 CTB, Old File Nos. 90027, 89020, 8161, Southwest IN Pub Bdcstg, Inc., Evansville, IN.
File No. 91273 CRB, Old File Nos. 90189, Public Broadcasting of NE Indiana, Inc, Fort Wayne, IN.

KS (Kansas)

File No. 91095 CRB, Old File Nos. 90136, 89205, KANZA Society, Inc., Pierceville, KS.
File No. 91262 CRB, Old File Nos. 90157, University of Kansas, Lawrence, KS.

LA (Louisiana)

File No. 91223 CTN, Old File Nos. 90188, New Orleans Educ. T/C Consortium, New Orleans, LA.

MA (Massachusetts)

File No. 91104 CRB, Old File Nos. 90220, University of Massachusetts, Boston, MA.

MD (Maryland)

File No. 91179 CRB, Old File Nos. 90264, New Community College of Balt., Baltimore, MD.

ME (Maine)

File No. 91253 CRB, Old File Nos. 90062, University of Maine System, Bangor, ME.

MI (Michigan)

File No. 91038 CTB, Old File Nos. 90032, University of Michigan, Flint, MI.
File No. 91140 CTB, Old File Nos. 90267, Delta College, University Center, MI.
File No. 91211 CRB, Old File Nos. 90089, Grand Rapids Cable Access Center, Grand Rapids, MI.
File No. 9126l CRB, Old File Nos. 90268, Delta College, University Center, MI.

MN (Minnesota)

File No. 91025 CTB, Old File Nos. 90151, 89265, West Central MN Ed. TV Co., Inc., Appleton, MN.
File No. 91164 CRB, Old File Nos. 90125, 89027, 8203, St. Olaf College, Northfield, MN.

MO (Missouri)

File No. 91180 CRB, Old File Nos. 90019, University of Missouri, St. Louis, MO.

MT (Montana)

File No. 91136 CTB, Old File Nos. 90098, Colstrip Public Schools, Colstrip, MT.
File No. 91216 CTB, Old File Nos. 90059, Montana Public Television, KUSM–TV, Bozeman, MT.

NC (North Carolina)

File No. 91048 CTN, Old File Nos. 90002, Pembroke State University, Pembroke, NC.
File No. 91213 CRB, Old File Nos. 9007l, Western NC Public Radio, Asheville, NC.

ND (North Dakota)

File No. 91202 CTB, Old File Nos. 90061, Prairie Public Broadcasting, Inc, Fargo, ND.

NH (New Hampshire)

File No. 91110 CRB, Old File Nos. 90149, New Hampshire Public Radio, Inc., Concord, NH.

NM (New Mexico)

File No. 91144 CRB, Old File Nos. 90198, Gallup Public Radio, Gallup, NM.
File No. 91160 CRN, Old File Nos. 90123, NM Commission for the Blind, Albuquerque, NM.

NV (Nevada)

File No. 91146 CTN, Old File Nos. 90148, Univ. of Nevada Sys. Bd. of Regents, Carson City, NV.

NY (New York)

File No. 91003 CRB, Old File Nos. 90036, 89103, The Colleges of the Seneca, Geneva, NY.
File No. 91012 CTB, Old File Nos. 90087, Western NY Public Broad. Assoc., Buffalo, NY.
File No. 91228 CTB, Old File Nos. 90291, Pub. Brdcstg Council of Cent. NY, Syracuse, NY.

OH (Ohio)

File No. 91248 CTB, Old File Nos. 90258, Public Brdcstg Found. of NW Ohio, Toledo, OH.

PA (Pennsylvania)

File No. 91023 CTB, Old File Nos. 90140, QED Communications, Pittsburgh, PA.
File No. 91045 CRB, Old File Nos. 90141, QED Communications, Pittsburgh, PA.

PR (Puerto Rico)

File No. 91050 CTB, Old File Nos. 90083, Puerto Rico Public Broad. Corp., Hato Rey, PR.

UT (Utah)

File No. 91054 CRB, Old File Nos. 90199, Moab Public Radio, Inc., Moab, UT.
File No. 91199 CTB, Old File Nos. 90053, 89104, 8191, University of Utah, Salt Lake City, UT.

WA (Washington)

File No. 91147 CRB, Old File Nos. 90033, Evergreen State College, Olympia, WA.

File No. 91255 CRB, Old File Nos. 90226, Pacific Lutheran Univ., Inc., Tacoma, WA.

WY (Wyoming)

File No. 91219 CRB, Old File Nos. 90008, Jackson Hole Public Radio Corp., Jackson, WY.

[FR Doc. 91-7679 Filed 4-1-91; 8:45 am]
BILLING CODE 3510-60-M

federal register

Tuesday
April 2, 1991

Part V

Department of the Interior

Bureau of Indian Affairs

Indian Gaming; Notice

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

Indian Gaming

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice of approved tribal-State compact.

SUMMARY: Pursuant to 25 U.S.C. 2710, of the Indian Gaming Regulatory Act of 1988 (Pub. L. 100–497), the Secretary of the Interior shall publish, in the Federal Register, notice of approved Tribal-State Compacts for the purposes of engaging in Class III (casino) gambling on Indian reservations. The Assistant Secretary—Indian Affairs, Department of the Interior, through his delegated authority has approved a Tribal-State Compact between the San Manuel Band of Mission Indians and the State of California executed on November 21, 1990.

DATES: This action is effective April 2, 1991.

ADDRESSES: Office of Tribal Services, Bureau of Indian Affairs, Department of the Interior, MS 4614, 1849 C Street NW., Washington, DC 20240.

FOR FURTHER INFORMATION CONTACT: Joyce Grisham, Bureau of Indian Affairs, Washington, DC, (202) 208–7445.

Dated: March 26, 1991.

Eddie F. Brown,

Assistant Secretary—Indian Affairs.

[FR Doc. 91–7702 Filed 4–2–91; 8:45 am]

BILLING CODE 4310–02–M

federal register

Tuesday
April 2, 1991

Part VI

Department of Transportation

Federal Aviation Administration

14 CFR Parts 107 and 108
Employment Standards; Proposed Rule

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Parts 107 and 108

[Docket No. 26522; Notice No. 91-9]

RIN 2120-AD95

Employment Standards

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: The FAA proposes to establish minimum standards for the hiring, continued employment and contracting for air carrier and airport employees engaged in security-related activities. Actions proposed in this notice respond to the Aviation Security Improvement Act of 1990 (Pub. L. 101-604). The proposed requirements are intended to enhance the effectiveness of U.S. civil aviation security systems in providing safety and security from terrorism and other criminal acts against civil aviation to passengers of U.S. air carriers.

DATES: Comments must be received on or before May 2, 1991.

ADDRESSES: Comments on this notice should be mailed, in triplicate, to: Federal Aviation Administration, Office of the Chief Counsel, Attention: Rules Docket (AGC-10), Docket No. 26522, 800 Independence Avenue SW., Washington, DC 20591. Comments delivered must be marked Docket No. 26522. Comments may be examined in room 915G weekdays, except on Federal holidays, between 8:30 a.m. and 5 p.m.

FOR FURTHER INFORMATION CONTACT: Robert J. Cammaroto, Office of Policy and Planning (ACP-1), Federal Aviation Administration, 800 Independence Avenue SW., Washington DC 20591; telephone (202) 267-7723.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Comments relating to the environmental, energy, federalism, or economic impact that might result from adopting the proposal in this notice are also invited. Substantive comments should be accompanied by cost estimates. Comments should identify the regulatory docket or notice number and be submitted in triplicate to the Rules Docket address specified above. All comments received on or before the specified closing date for comments will be considered by the Administrator before taking action on the proposed rulemaking. The proposals contained in the notice may be changed in light of comments received. All comments received will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket. Commenters wishing to have the FAA acknowledge receipt of their comments submitted in response to this notice must include a pre-addressed, stamped postcard on which the following statement is made: "Comments to Docket No. 26522." The postcard will be dated, stamped, and returned to the commenter.

Availability of NPRM

Any person may obtain a copy of this NPRM by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Inquiry Center (APA-230), 800 Independence Avenue SW., Washington, DC 20591, or by calling (202) 267-3484. Communications must identify the notice number of this NPRM.

Persons interested in being placed on the mailing list for future rulemaking documents should also request a copy of Advisory Circular No. 11-2A, Notice of Proposed Rulemaking Distribution System, which describes the application procedures.

Background

On December 21, 1988, Pan American World Airways Flight 103 was destroyed by a terrorist bomb while in flight above Lockerbie, Scotland. That tragedy resulted in the deaths of 259 passengers and crew aboard the Boeing 747, and 11 residents of Lockerbie on the ground. It was the worst disaster of its type in U.S. civil aviation history.

In response to the Pan Am 103 bombing, President Bush signed Executive Order 12686 on August 4, 1989, establishing the President's Commission on Aviation Security and Terrorism (Commission). The Commission was tasked not only to investigate the Pan Am 103 bombing, but to review and evaluate the state of U.S. civil aviation security systems.

The Commission's final report, filed on May 15, 1990, made several recommendations for improvement of the civil aviation security program conducted by the FAA's Office of Civil Aviation Security. The Commission's recommendations formed the basis of the Aviation Security Improvement Act of 1990 (Pub. L. 101-604) (the Aviation Security Improvement Act), enacted on November 16, 1990.

Section 105(a) of the Aviation Security Improvement Act amends section 316 of the Federal Aviation Act of 1958 (Pub L. 85-726) (FA Act) by adding a new subsection "(h)," captioned "Employment Standards." This subsection directs the FAA Administrator to prescribe minimum standards for the hiring and continued employment of air carrier and airport security personnel, including contractor personnel. The prescribed standards must address training and retraining requirements, language skills, staffing levels, and education levels.

The FAA proposes to amend parts 107 and 108 of the Federal Aviation Regulations (FAR) by adding minimum employment standards mandated under the Aviation Security Improvement Act. Part 107 prescribes FAA airport security regulations, while part 108 prescribes airplane operator security regulations. The FAR is a public document that is available to anyone. Thus, under the proposed rule, the FAA's general, minimum employment standards would be available to the public through the FAR. However, the security-sensitive, detailed implementing instructions would be set forth separately in FAA-approved, non-public security programs required of airport operators under § 107.3, and of air carriers under § 108.5. Those security programs are protected from disclosure under the provisions of FAR part 191, which implements section 316(d)(2) of the FA Act (49 U.S.C. 1357(d)(2)). In effect, section 316(d)(2) provides, among other things, that security-sensitive information may be withheld if its disclosure would be detrimental to the safety of persons traveling in air transportation.

Thus, while this rulemaking action proposes general requirements for minimum employment standards for airport operators and air carriers, the security-sensitive instructions tailored to the particular needs of each airport and air carrier and contained in FAA-approved security programs are not specified in the rule. Those instructions, which involve sensitive security requirements, must, however, be consistent with this rule.

Discussion of Proposed Rule

General

Part 107 contains security requirements for airport operators. It addresses access control, law enforcement support, and the submission of airport security programs

for FAA approval. In addition to current airport security rules and procedures, section 105 of the Aviation Security Improvement Act mandates that the FAA Administrator prescribe employment standards for the hiring, and continued employment of airport security personnel, including contractor personnel, by not later than 270 days after the date of enactment (November 16, 1990). Although some airports have voluntarily instituted employment standards, the FAA does not require such standards through its current rules. The proposals in this rulemaking would enhance the current system.

Because training in airport security involves maintaining the integrity of employee identification systems, the proposed revisions to part 107 seek to improve various aspects of airport-issued identification media usage and systems. Specifically, the proposal would standardize training related to issuance of identification media for those airport operators that currently provide training, and would require training where it does not now exist. The proposal also would restrict an individual from using identification media which was not issued to him or her by airport authorities, and would require that records of training be maintained. Further, the proposal provides a vehicle to ensure the FAA's prompt and unobstructed access to evidence of compliance with the proposed requirements, as well as with all other aspects of the regulation. Lastly, the proposal requires the designation of an official at each airport subject to part 107 who would serve as the point of contact with the FAA for coordination, communications, and other activities. That official, the Airport Security Coordinator, would facilitate not only the implementation of this proposed rule, but would perform a similar role for the overall security program.

Section 105 of the Aviation Security Improvement Act also mandates that the FAA Administrator promulgate employment standards for air carrier security personnel. Part 108 prescribes security rules for domestic air carriers. The Commission report indicated that the FAA should place increased emphasis on the recruiting, training, and motivation of a qualified security work force. It recommended that the FAA take the lead in stressing the role of human factors in the security equation and that training be improved. The Aviation Security Improvement Act also requires improved personnel training, adequate staffing, and appropriate education levels for air carrier security personnel.

The FAA proposes to amend part 108 to incorporate employment standards to implement this legislative mandate. While air carriers are currently required to develop and implement non-public, FAA-approved security programs in the same manner as airports, the proposed rulemaking is intended to establish the type of employment standards that would be required.

A major portion of this proposed rulemaking affects preboarding passenger screening as currently performed by U.S. air carriers in accordance with part 108 and their security programs. Foreign air carriers, regulated for security purposes by part 129 (§§ 129.25 through 129.27), are also required to conduct screening, and they often comply with that requirement by using checkpoints operated by U.S. carriers in accordance with part 108. However, a number of checkpoints are operated exclusively by and for foreign carriers. The FAA anticipates that revisions to part 129 and the foreign air carriers' security programs will be necessary to ensure consistency with the employment standards proposed in this rulemaking.

Section-by-Section Analysis

Section 107.7 Changed Conditions Affecting Security

The proposal makes an important technical modification to § 107.7 by adding a new paragraph (a)(5) that would include any changes in the designation of Airport Security Coordinators (proposed § 107.29) among the conditions requiring both notification to the FAA and a conforming security program amendment under § 107.7(b).

Section 107.25 Airport Identification Media

Proposed § 107.25 would establish standards for the issuance and use of airport identification media. The proposal focuses on training of persons issued identification that permits unescorted access to certain airport areas.

Most airports regulated under part 107 rely on identification and other systems to control access to and movement in areas controlled for security purposes. Some airports historically have conducted training on the use of these systems. However, that training generally has not been as comprehensive as the training proposed under this section.

The FAA is keenly aware of the important role these systems play in controlling access to those portions of airports which provide potential targets for terrorists and other criminals. Similarly, the agency recognizes that the systems can be undermined by the failure to provide any training or by ineffective training of individuals who use them.

Inadequate training results in the inconsistent application of security procedures. In other words, the system can only work if appropriate training is provided to a well-targeted audience. The audience must then be monitored to ensure consistent and effective application of the training. Thus, an initial goal in a training proposal is to define the target audience.

After careful consideration of the many differences which characterize airports, the FAA has decided that the best approach is to target for training those individuals having unescorted access within what would be termed the "security identification display area" (SIDA). The SIDA is defined as any area identified in the individual airport security program as requiring each person to continuously display an airport-approved identification, unless the person is under airport-approved escort (§ 107.25(a)). The SIDA generally would include secured areas under § 107.14, air operations areas (§ 107.1(b)(2)), cargo/baggage make-up areas, as well as other areas specified in individual airport security programs.

The SIDA is defined in terms of "airport-approved" identification media since there are media which signify unescorted access to the SIDA, but which are not issued by airport authorities. These media include the FAA Form 8000-39 issued to certain FAA employees, and air carrier identification displayed in accordance with exclusive area agreements or by working flight crews in the immediate vicinity of their aircraft. Under the proposed rule, the airport operators would be required to train only those individuals receiving airport-issued identification. The training of holders of airport-approved media issued by the FAA, carriers, or others is the responsibility of the issuing entity and is not a part of this proposed rulemaking.

Having established the target audience, the FAA seeks to standardize both the substance and delivery of the training. Significantly, the specified training (§ 107.25(e)) represents the minimum required. Because of the unique nature of each airport, the FAA understands that training specified in a wide-reaching regulation could speak only to general concepts. Hence, the agency has chosen to present a list of

required topics around which airport operators must build customized curricula. They also would be encouraged to enhance the curricula by adding topics of local concern.

In providing the training, airport operators are offered a phased approach (§§ 107.25 (b)–(d)). As proposed, the regulation would require specified training for all persons to whom the subject identification media are issued after October 1, 1991. Then, all other holders of airport-issued identification would have to be trained, regardless of when their media were issued, by not later than July 1, 1992. Of this latter group, not less than 50 percent must be trained by March 1, 1992.

Significantly, the proposal also places upon persons the responsibility to use only the media issued to them to gain access to or be present in the SIDA (§ 107.25(f)). By fixing the individual's accountability, the FAA expects to greatly strengthen the deterrence to the use of borrowed, stolen, or lost identification media.

The need to document training required by this proposal is obvious and unavoidable; however, recognizing the many demands for recordkeeping systems airport operators already face, the agency has sought to limit additional requirements here. Given its necessity, though, such a system will provide a data base for the FAA's oversight role and will provide the airport operator with a means to document compliance. In the case of actual incidents, these records would play an important role during investigative efforts. Therefore, § 107.25(g) would require airport operators to maintain records to document the required training. Also, in the interest of minimizing historical files, the records of each individual's training would need to be maintained for only 180 days following the termination of that individual's unescorted access privileges.

The net effect of § 107.25 is to specify training and procedures that would promote more effective use of critical security systems.

Section 107.27 Evidence of Compliance

Over the years, the security program embodied in part 107 has grown in scope and complexity. Related administrative and operational demands have caused airport operators to establish recordkeeping systems to document their compliance. As a result of this proposed rulemaking, some airport operators may have to institute new or expanded recordkeeping systems. These systems are frequently reviewed during FAA inspections or investigative efforts. Thus, to fulfill its responsibility, the FAA needs to have unobstructed and immediate access to those records that document compliance with regulatory requirements. The proposed § 107.27 would assure this access.

Through the proposed § 107.27, the FAA seeks to place into part 107 an evidence of compliance requirement the counterpart of which was placed upon the air carriers, through an amendment in part 108 (50 FR 136; July 16, 1985.) The amendment, which requires the air carriers to provide the FAA evidence of compliance when requested, became effective on December 12, 1986 (51 FR 239). In explaining the need for the reporting requirement, the agency noted: "* * * In an age of heightened terrorism, [a] reporting requirement is necessary to ensure the highest level of safety in air transportation for Americans, in accordance with the Federal Aviation Act of 1958 * * *. The size and complexity of the current security effort make this cooperation essential for the FAA's performance of its role in aviation security. Section 108.27 is intended to provide a sanction for the small number of persons who would impede the task of monitoring that effort. It is not expected to result in an increased burden on either part 108 certificate holders or the FAA.

In 1991, the FAA believes even more strongly in these concepts.

Section 107.29 Airport Security Coordinator

The FAA has long held that constant vigilance is both a price and a defining characteristic of an effective security system. Such vigilance, however, can be maintained only if the responsible party supports it through constant oversight and adjustments as necessary. Although the FAA believes the leadership to provide that support already exists within the airport management community, a consistent and identifiable structure needs to be established to enhance the vigilance the FAA seeks. This structure was accomplished for the air carriers through the Ground and Inflight Security Coordinator roles established under § 108.10. In a similar initiative, the FAA now proposes to require airport operators to appoint an "Airport Security Coordinator" (ASC). The proposal appears as § 107.29.

In the context of this proposal, an ASC would provide a readily available and consistent communications link to the FAA. Further, many security-related functions which may now be fragmented within airport organizations could be centralized under the ASC, or through the ASC's oversight. Such functions might include records maintenance, compliance oversight, program development and training, as well as the facilitation of security-related communications between the airport and the FAA, the airport's tenants, and other appropriate parties. The specifics of the ASC's responsibilities at a given airport would be identified in the security program.

Significantly, the FAA does not expect the ASC program to require a full-time position. Rather, at most airports, the ASC duties could be collateral, especially where the individual's primary duties already involve security-related matters, e.g., operations officers. At the few airports where the ASC duties may require a full-time position, it is most likely that at least one position is already dedicated to security matters full-time, and most ASC functions would fall within the purview of the current full-time security position.

The thrust of § 107.29 is to centralize security-related functions in a standard manner through a designated individual. This more consistent approach should facilitate both the security-related operations of the airport operators as well as the FAA's oversight.

Section 108.9 Screening of Passengers and Property

The FAA proposes to add a subparagraph (d) to § 108.9 to require air carriers to staff their security checkpoints with both supervisory and non-supervisory screening personnel in accordance with the standards specified in the carriers' security programs. As previously noted, the security programs are sensitive documents not available to persons who do not have a bona fide operational need-to-know. Specific staffing criteria are being developed and will be presented in a proposed revision to the carriers' security programs. Since these criteria could assist anyone attempting to breach security, they cannot be publicly disclosed. However, the standards incorporated in the security programs would improve the level of first-line supervision over screening activities and limit the number of security duties that any individual screener can be responsible for at any one time. The FAA's experience indicates that the most effective security checkpoints have been those with strong and capable supervision, where potential or actual weaknesses are detected immediately and strong remedial action is taken. Similarly, the most effective checkpoints often are those where individual screeners focus on one aspect of the screening process rather than attempting to perform several functions simultaneously.

Section 108.17 Use of X-ray Systems

The proposed rule would add a new subparagraph (h) to § 108.17, which would require carriers to comply with X-ray baggage-inspection-systems operator-duty-time limitations specified in their security programs. The FAA recognizes that X-ray operators' attention spans are drastically shortened under peak workload conditions when operators must make decisions every few seconds, with potentially fatal implications if a mistake is made. Conversely, under low through-put conditions, the operator's stress level is much less and the attention span is extended considerably. The proposed security program change mandates specific rotation frequencies under differing conditions. A long-standing requirement in security programs mandates the creation and retention of X-ray operator duty time logs, which are routinely reviewed by FAA special agents during security inspections. Accordingly, the FAA would be able to monitor compliance with the duty time limitations. In the past, the FAA recommended, but did not require, a specific rotation frequency to improve the human factors in the screening process. This regulatory change, in concert with the security program amendment, would make rotation mandatory and foster increased X-ray operator vigilance.

In proposing § 108.17(h), the FAA believes that there will be no significant economic impact. In the past, the common practice has been that screeners are qualified to function at most, if not all, the positions at the checkpoint to which they are assigned. During the course of a shift, they will rotate through the positions to provide relief and a variety of duties to sustain vigilance. As noted above, this practice, however, has not been mandated by the FAA, but practiced pursuant to company or local management policy. As such, the rotation and its benefits are sometimes sacrificed to the exigencies of the moment, e.g., inadequate staffing, unusually heavy workloads, equipment outages, etc. Therefore, the FAA seeks specific comment on the cost consequences of the operator duty-time proposal.

The proposed § 108.17(h) will ensure a rotation, and one that is frequent enough to have a positive effect. Managers of the screening operations will have to properly plan and staff to accommodate the rotation during both routine operations and such exigencies as may be reasonably foreseen.

Section 108.29 Standards for Security Oversight

The FAA further proposes to add a new § 108.29 to the regulation to buttress new training and staffing requirements. This section would explicitly require several actions by air carriers that have been implicit in part 108 and the air carrier security programs. Proposed § 108.29(a)(1) requires that carriers provide, on a need-to-know basis, employees and contractors with complete and current information on security requirements (that is, the requirements of part 108, the carrier's security program, and applicable Security Directives) and Information Circulars applicable to the individual station. Proposed § 108.29(a)(2) requires the carriers' Ground Security Coordinators (GSC) to evaluate the effectiveness of the station's security-related functions semiannually on a formal, written basis; these written evaluations would become available to the FAA under § 108.27. Proposed § 108.29(a)(30) requires a daily review of security operations by a GSC. Proposed § 108.29(b) makes explicit the carrier's responsibility, even where a security function is performed by a contractor.

The FAA believes that the proposed language of §§ 108.29(a)(1) and (b) is needed because FAA security inspections have disclosed that where several carriers share a screening contractor at a given airport, frequently each carrier assumes another carrier will pass on security information. The solution is to require rapid dissemination of such information or requirements to all affected parties, including screening contractors, for immediate implementation.

Proposed §§ 108.29 (a)(2) and (a)(3) seek to establish effective oversight at the air carrier station level by specifically requiring daily and semiannual self-evaluations of security functions including screening functions performed by contractors.

The FAA believes that the individual GSC who is most heavily involved in security issues at a given station would be the best person to perform the oversight function required under proposed § 108.29. Usually, an air carrier station manager is a trained and qualified GSC and by virtue of his/her position is the senior GSC. While the FAA is not proposing to formally impose these duties on station managers per se, where feasible, the FAA would encourage appointment of a station manager who is a qualified GSC to perform the oversight function. The requirement that these oversight functions be accomplished by a qualified GSC ensures that air carrier station personnel extensively trained in security functions perform these self-evaluations, rather than the function being delegated in whole or in part to a contractor representative, such as the site manger of a screening company.

Where several air carriers share the same screeners, only one such carrier would be required to conduct the screening portion of the evaluations. However, the FAA expects that all using carriers would maintain copies of the documentation of the semiannual evaluations and of any daily evaluations that reflect deficiencies. Screening portions of the daily evaluations reflecting no deficiencies might be retained at the checkpoint or at the screening contractor's on-airport office.

Section 108.31 Hiring Standards, Training, and Testing—Screening Personnel

The proposed § 108.31 addresses the heart of the employment standard requirements mandated by section 105 of the Aviation Security Improvement Act of 1990. The FAA believes that requirements need to be established to ensure that screeners and screening supervisors are selected for, and retained in, those positions only after affirmative determinations of their fitness have been made. Such fitness includes mental acuity, sensory capabilities, trustworthiness, ability to communicate effectively in English, interpersonal skills, and above all, vigilance.

A significant amount of the content of this section already exists in air carriers' security programs but, on review, not all is so sensitive as to preclude its placement in the publicly available rule. The FAA believes that, to a limited degree, screener employment standards and training and testing requirements should be available to the public to (1) advise potential applicants for screener positions of the basic qualifications required, and (2) foster confidence in the system and in the people who make it work. Obviously, detailed training curricula and the criteria used by both air carriers and the FAA to test screener effectiveness are extremely security-sensitive. If such information became available to a person with criminal or terrorist intent, it could focus that person's attention on specific techniques to counter otherwise effective security systems. In conjunction with this rulemaking action, current standards for pre-employment qualifications, training and recurrent training, and testing of screening personnel would be

strengthened through a corollary proposed security program revision, as well.

Screener applicants are routinely hired while undergoing initial training and on-the-job training (OJT). For a number of years, however, carriers' non-public security programs have required that certificate holders not use new screeners to make independent screening judgments until they have completed initial training and OJT, and have been tested on their knowledge and detection capability. This requirement would become part of proposed § 108.31(a).

The Aviation Security Improvement Act mandates that the FAA prescribe education levels "as appropriate," and proposed § 108.31(a)(1) is a new requirement for non-supervisory screening personnel, on which the FAA specifically requests public comment. The proposed educational requirement can be satisfied by either (1) a high school diploma, (2) a General Equivalency Diploma (GED), or (3) a combination of education and experience which has been evaluated by the air carrier as having suitably equipped the applicant to perform the duties of the position. The latter option will accommodate those persons who, for one reason or another, did not complete high school or a GED program, but whose previous employment and life experience have demonstrably equipped them for the position. The FAA requests comments on whether a nexus exists between formal education and the knowledge, skills, and abilities required of a screener. The FAA's experience is that a number of current screeners who do not have diplomas or GEDs have performed very acceptably, and in many cases display better oral and written communications skills than some high school graduates.

The employment standards in proposed § 108.31(a)(2), which will be detailed in the non-public security programs, are performance-based; that is, trainees must demonstrate that they meet each standard directly related to the duties which a screener may be called upon to perform. Visual acuity and color perception are particularly important for X-ray operators, and those performance standards are keyed to actual duty requirements and screening equipment, rather than to arbitrary standards. The FAA believes that performance-based standards provide a more practical and legally justifiable basis for screener selection than other types of standards. Similarly, certain motor skills are necessary for the physical search of persons and hand-carried items. These skills must be demonstrated in performance-based tests during the required initial training.

The FAA specifically invites comments on the issue of screeners' language capabilities that are addressed in proposed § 108.31(a)(3) (domestic airports) and § 108.31(f) (screening functions performed at airports outside the United States over which the carrier has operational control). In the United States, the FAA's experience indicates that many passengers have complained of great frustration, inconvenience, and confusion at not being able to make themselves understood to, or to understand communications from, screening personnel. Screening jobs in major cities are generally entry-level positions which attract substantial numbers of recent immigrants whose English language skills are frequently poor, despite literacy in their native tongue and their often considerable professional or educational achievements in their native countries. Because English is the predominant language of the United States, the FAA requests comments from the public on the reasonableness of the proposed rule as it would apply in the United States in areas such as Miami, where English may not be the predominant language.

Since screener training materials used in the United States, including audio-visual media, employ the English language, the issue of language skills as a prerequisite for screener selection cannot be avoided. Persons with minimal English language skills might be particularly disinclined to ask questions during training that would betray their lack of understanding of written materials or of spoken instruction in English, believing that such questions might threaten retention in the job. The effect could be that the trainee may not be sufficiently knowledgeable of his or her duties, responsibilities, and the procedures to be employed. Within a corollary proposed security program revision to be disseminated for air carrier comment during this NPRM process, the FAA has approached this sensitive issue from the perspective of (1) whether the individual has those language skills necessary for understanding and carrying out essential English language instructions, (2) whether the individual has the language skills necessary for essential communication with persons undergoing screening, and (3) requiring written testing at the end of initial classroom and recurrent training that focuses on the screening environment and written materials that will be encountered there. Also note that very limited English language requirements are proposed for U.S. air carrier stations outside the United States in § 108.31(f), which is discussed below.

Proposed § 108.31(a)(4) would require that a screener complete initial training before he or she may be used to perform any screening function. The section also would require the satisfactory completion of all recurrent training and, if appropriate, specialized training required by the carrier's security program.

Initial training of new employees consists of formal classroom and OJT. In the latter training, the new employee becomes more familiar with equipment and procedures while working under the tutelage of an experienced, fully-qualified screener. The key element is that the new employee is not viewed as having completed initial training and is not permitted to make "independent judgments" until (1) classroom training has been completed and the individual has demonstrated retention of the required knowledge in a written test, (2) a period of on-the-job (i.e., application of skills) training has been completed, and (3) the individual has demonstrated his or her capabilities by successfully detecting, under realistic operational conditions, each of the FAA-specified test objects, which simulate weapons and explosive devices. A record of successful completion of initial training means that a decision has been made by the air carrier that the new employee is qualified to make independent screening judgments. The critical aspect is that the certificate holder shall not use a person to perform any screening function requiring independent judgments until competence has been demonstrated and recorded. In effect, placing an individual on a payroll during the basic training period is probationary hiring. A person who fails to demonstrate the required knowledge and detection capability has not compromised the screening system because he or she has not made independent judgments. Accordingly, the proposed rule complies with the Aviation Security Improvement Act in that "employment," in the sense of the carrier's utilization of the individual for making independent screening judgments, commences only after the air carrier has affirmed in writing that the individual has demonstrated that he or she has the appropriate knowledge and detection ability to properly perform screening duties.

Thus, tests during training will determine whether each screener (1) has absorbed the information taught, and (2) can demonstrate the practical application of the knowledge imparted

by actually detecting FAA-approved test objects designed to simulate weapons, explosive devices, and other items that require physical examination. Existing testing procedures have been strengthened in the concurrent proposed amendment to air carriers' security programs.

Recurrent training involves mandatory refresher training conducted at intervals specified in the carriers' security programs to reinforce the screener's knowledge and abilities.

"Specialized training" refers primarily to training in advanced screening techniques that is required to be implemented at designated airports. A training curriculum for application at these airports is already detailed in air carrier security programs.

The FAA and the air carriers conduct unannounced tests of the effectiveness of screening systems by attempting to pass FAA test objects through screening. Precise procedures for both FAA and air carrier testing of this nature, termed "screening system evaluations," are delineated in the carriers' security programs. Although the detection rate has steadily improved, occasionally a test object is not detected or a bag containing the test object is not properly controlled. When a failure occurs, the air carrier is presently required to counsel the screener and take corrective action.

Proposed § 108.31(c) and the corollary amendment to the air carriers' security programs seek to strengthen the corrective actions required following a test failure. The proposed rule provides that the air carrier may not continue to use a screener in a function, such as X-ray screening, after failing a test until the screener has successfully completed the remedial training specified in the security program for that function. The proposed security program revision would mandate the nature of remedial training to ensure that the person has the required detection ability. Upon satisfactory completion of the remedial training, the screener may make "independent screening judgments" in the function in which he or she failed the test.

The Aviation Security Improvement Act specifically requires that standards for "continued employment" be established. In the past, no explicit standards were promulgated beyond the requirement for recurrent training. However, the realities of the marketplace often results in the termination of ineffective screeners to prevent their poor performance from causing violations that could result in FAA civil penalties. The FAA agrees that retention standards are necessary and proposes standards in § 108.31(d). Possibly, the most significant provision is the requirement that semiannual written evaluations of each screener be performed, with an affirmative decision to permit the continued employment of the screener. The proposed rule would require that these evaluations be conducted by a Ground Security Coordinator rather than by a contractor representative, such as a guard company supervisor or site manager. As in the case of evaluations conducted pursuant to proposed § 108.29(a)(2), where several carriers share the same screeners only one such carrier would be required to conduct the screener evaluations.

One of the determinations in these semiannual evaluations is that, since the last such evaluation, a screener has not suffered a significant diminution of any physical ability required to perform a screening function (§ 108.31(d)(1)). The FAA does not seek to impose a significant burden on carriers in this regard, and does not foresee a need for medical evaluations. The FAA believes that this portion of the evaluation can be accomplished in approximately 5 minutes. For example, visual acuity may be checked in moments by having the screener identify the official FAA imaging standard on an X-ray screen. This procedure also may indicate whether a screener must routinely wear corrective lenses while serving as an X-ray reader to be effective in that capacity. Likewise, the hearing acuity and physical coordination standards can be checked in moments at the checkpoint without resorting to specialized equipment.

A second element of the evaluation is whether the screener has had, since the last evaluation, a satisfactory record of job performance and attention to duty (§ 108.31(d)(2)). This element focuses on the screener's performance in detections of actual weapons and dangerous objects, unannounced FAA and air carrier tests, and interactive skills with the public and co-workers. The factor "attention to duty" is highlighted in the rule to reflect the FAA's concern that each screener must be fully alert at all times.

The third element is the carrier's determination that the screener continues to demonstrate the current knowledge and skills necessary to perform screening functions courteously, vigilantly, and effectively (§ 108.31(d)(3)). That is, the fact that a screener has passed the written and operational tests in discrete training periods is not enough; the screener must continually apply the knowledge and skills in the day-to-day environment. Courtesy to the public is essential and is, in fact, mandated by section 316(a) of the FAA Act. Vigilance must be the screener's stock in trade. Effectiveness is achieved through constant, vigilant applicant of the knowledge and skills.

Proposed § 108.31(e) affords U.S. air carrier stations in foreign countries relief from the requirements of paragraphs (a) through (d) (screener qualifications, aptitudes, physical abilities, English language capability, the U.S. screener training program, and semiannual evaluations of screeners) for those functions over which the U.S. air carrier does not exercise operational control.

The FAA recognizes that, outside the United States, a U.S. air carrier may not have "operational control" over some or all screening processes. For example, at many foreign airports a U.S. air carrier may share a security checkpoint and its screening personnel with several foreign carriers, but may have little or no control over the selection, training, and evaluation of the screening personnel. In fact, the screening personnel may be national police or other government employees, rather than private individuals employed by the air carrier or a contract agency. In such cases, the FAA views the U.S. carrier as not having operational control over the screening process. However, the FAA continues to conduct foreign airport security assessments pursuant to The International Security and Development Cooperation Act of 1985 (Pub. L. 99–83) at all foreign airports served by U.S. air carriers. These assessments include, among other things, appraisals of the efficacy of the screening processes and determinations of whether the processes and their application meet international aviation security standards and recommended practices.

In other instances, the U.S. carrier may use its own direct-hire employees to perform screening functions, or may be the sole or controlling contracting party. In such cases, the U.S. carrier does have operational control.

In a third possibility, at certain foreign airports, the FAA has directed U.S. carriers to implement enhanced or extraordinary measures in addition to those mandated by the host government. The U.S. air carrier may use its own direct-hire employees to perform only these specialized screening functions, or may be the sole or controlling contracting party for those functions. In such cases, the U.S. air carrier has operational control of the specialized functions irrespective of any lack of operational control of the primary screening functions mandated by the host government.

For U.S. carrier stations outside the United States, proposed § 108.31(f) would establish a very limited English language requirement, even when the U.S. air carrier has operational control over a screening function. Recognizing that acquiring screener personnel who can read, speak, and write in English (§ 108.31(a)(3)) may be difficult if not impossible in some locations, this provision permits the use of screeners who do not meet the English language requirement, provided that at least one person with the ability to functionally read and speak (but not necessarily write) English is present while the carrier's passengers are undergoing security processing. The proposal is so worded that the person with English language capability need not be a qualified screener. The FAA's experience indicates that U.S. air carrier stations outside this country customarily provide this service as a matter of course, often using their passenger service agents. The FAA seeks to codify this practice as a requirement to ensure that American citizens can be accommodated in their country's predominant language while undergoing security processing that is under the operational control of a U.S. flag carrier.

Regulatory Evaluation Summary

Introduction

This section summarizes the full regulatory evaluation prepared by the FAA that provides more detailed estimates of the economic consequences of this regulatory action. This summary and the full evaluation quantify, to the extent practicable, estimated costs to the private sector, consumers, Federal, State and local governments, as well as anticipated benefits.

Executive Order 12291, dated February 17, 1981, directs Federal agencies to promulgate new regulations or modify existing regulations only if potential benefits to society for each regulatory change outweigh potential costs. The order also requires the preparation of a Regulatory Impact Analysis of all "major" rules except those responding to emergency situations or other narrowly defined exigencies. A major rule is one that is likely to result in an annual effect on the economy of $100 million or more, a major increase in consumer costs, a significant adverse effect on competition, or is highly controversial.

The FAA has determined that this rule is not "major" as defined in the executive order; therefore a full regulatory analysis, that includes the identification and evaluation of cost reducing alternatives to this rule, has not been prepared. Instead, the agency has prepared a more concise document, termed a regulatory evaluation, that analyzes only this rule without identifying alternatives. In addition to a summary of the regulatory evaluation, this section also contains an initial regulatory flexibility determination as required by the 1980 Regulatory Flexibility Act (Pub. L. 96–354) and an international trade impact assessment. If more detailed economic information is desired than is contained in this summary, the reader is referred to the full regulatory evaluation contained in the docket.

The FAA has made several economic assumptions in the estimation of the proposed amendment's benefits and costs. Public comment on these assumptions is requested and will be considered for the final rule.

Cost

The proposed rule would improve airport security, but it also would impose additional costs on airport operators and on airlines. Tables 1.a and 1.b outline the proposed changes, the type of costs associated with that change, and the estimated costs. All costs are presented in 1990 dollars and are discounted using a 10 percent discount rate.

The proposed rule would impose discounted costs of approximately $36.4 million over the period 1992 through 2001; the annualized costs would be approximately $5.8 million. About $4.4 million in annualized costs would result from enhanced training requirements for personnel authorized for unescorted access to SIDAs, and approximately $1.2 million in costs would come from enhanced checkpoint staffing requirements at small airports. In addition, the proposal would impose $263,000 in administrative and other costs on airports and air carriers.

TABLE 1.A.—CHANGES IN FAR PART 107 "AIRPORT SECURITY"

Section	Proposal	Annualized costs
107.7	Would require reporting changes in security liaison personnel	No incremental costs.
107.25	Would require training in security procedures for persons authorized unescorted access to restricted areas at airports.	Training costs for security personnel include wages paid during training and cost of instruction: $4,405,000.
107.27	Would clarify the responsibility of airport operators to provide evidence of compliance of this Part.	No incremental costs.
107.29	Would require appointment of an Airport Security Coordinator	Small administrative costs of $22,400.

TABLE 1.B.—CHANGES IN FAR PART 108 "AIRPLANE OPERATOR SECURITY"

Section	Proposal	Annualized costs
108.9	Would require airlines to staff checkpoints in accordance with their security programs. (Changes in ACSSP imply additional security checkpoint staffing.)	Additional checkpoint staffing would cost $1.2 million.
108.17	Would require carriers to comply with x-ray operator duty time limitations	No incremental costs. This codifies existing policy.
108.29	Would require that air carriers assign a person as the principal ground security coordinator to have security oversight functions including daily informal and semiannual formal self-evaluations of security functions.	Administrative costs related to evaluations equal $179,000.
108.31	Would require hiring, training and testing of security personnel to a standard outlined in their ACSSP.	This mostly codifies existing practices. However the administrative costs related to assuring that personnel meet standards and enhanced remedial training costs are $61,800.

Benefits

The potential benefits from the proposed rule would be a reduced risk of terrorist incidents and other criminal acts against U.S. civil aviation. Although the proposed regulation would affect mostly U.S. airports, this evaluation estimates the benefits based on the potential danger of terrorist activity

throughout the world because terrorists may strike anywhere. The range of terrorists' acts extends from an inflight bombing that destroys an aircraft killing all passengers to a hijacking that results in the diversion of an aircraft from its scheduled route.

Table 2 lists acts of aviation sabotage since 1986 where an explosion occurred aboard the airplane. The seven explosions produced an average of 84 fatalities. Between 1980 and 1985, 18 bombing incidents occurred aboard civil aircraft accounting for 505 fatalities. These data reveal the extent of terrorist activity and the risk of a major terrorist bombing incident.

TABLE 2.—TERRORIST BOMBINGS ABOARD CIVIL AIRCRAFT—1986/1989

Date	Airline	Killed	Injured
04/02/86	TWA	4	9
05/03/86	Air Lanka	16	41
10/26/86	Thai Airways	0	62
03/01/88	BOP Air (S. Africa)	17	0
12/21/88	Pan Am	270	0
09/19/89	UTA	171	0
11/27/89	Avianca	107	0
	Total	585	112

Although terrorist incidents are unpredictable, the potential economic loss from such an event can be measured based on avoided fatalities and the replacement costs for aircraft. To give the public and Government officials a benchmark comparison of the expected safety benefits of rulemaking actions over an extended period of time with estimated costs in dollars, the FAA currently uses a value of $1.5 million to statistically represent a human fatality avoided.

Table 3 presents a range of the potential benefits from avoiding just one terrorist incident during the next 10 years. The destruction of a Boeing 727 could result in a death toll of 91 persons. The estimated benefits of avoiding these deaths are $137 million. The replacement value of a Boeing 727 in 1990 dollars is approximately $6 million. The present value of such a disaster is valued at $92 million with an annualized value of $14 million over the period 1992 through 2001. On the other end of the scale, the loss of a DC10 would have a discounted value of $198 million and an annualized value of $30.7 million.

TABLE 3.—ESTIMATED BENEFITS FROM PREVENTION OF TERRORIST ACT

Aircraft type	Boeing 727	DC10
Capacity	148.8	275.4
Load Factor	61.4	68.5
Passengers	91	189
Value of Avoided Fatalities	$137,045,000	$282,974,000
Value of Aircraft	5,994,000	23,712,000
Total Value	143,039,000	306,685,000
Discounted Value	92,181,000	197,643,000
Annualized Value	14,304,000	30,669,000

Prevention of a hijacking that detours an airplane from its scheduled route but results in no aircraft damage or injuries has an estimated annualized benefits that range from $27,000 to $54,000.

Benefit-Cost Comparison

A comparison of benefits and costs of the proposed rule is presented in Table 4. On the low side, the potential net benefits from the proposed rule would be $8.5 million; on the high side, net benefits would be $24.8 million. The benefit derived from the added deterrence of a potential hijacking is not specifically included in these estimates. However, this benefit simply strengthens the argument that this rule is cost beneficial.

TABLE 4.—BENEFIT COST COMPARISON

Cateogry	Annualize value	Ten year discounted value
Cost	$5,846,000	$36,352,000
Low Benefit	14,303,000	92,181,000
Low Net Benefits	8,457,000	55,829,000
High Benefit	30,668,000	197,600,000
High Net Benefits	24,822,000	161,248,000

The FAA, therefore, has determined that the proposed rule is cost beneficial.

International Trade Impact

The proposed NPRM would have little or no impact on international trade. This proposal is not likely to affect foreign operators except where their personnel have unescorted access to SIDAs. In this instance, the operator would be expected to make its employees available for recurrent training which is to be provided by the airport operator. This training requirement is estimated to require only 2 hours a year per person, a minor cost. This cost would be the same for international carriers and domestic carriers.

Initial Regulatory Flexibility Analysis

The Regulatory Flexibility Act sections 603(b) and 603(c) of 1980 (RFA) ensures that government regulations do not needlessly and disproportionately burden small businesses. The RFA requires the FAA to review each rule that may have "a significant economic impact on a substantial number of small entities."

FAA criteria sets a "substantial number" as not less than 11 and more than one-third of the small entities subject to the proposed rule. About 220 small airports would be affected by this rule. The affected small airports are those operated by towns, cities, or counties whose populations are each less than 50,000 which is the size threshold for these small entities as determined by the FAA Regulatory Flexibility Criteria and Guidance. The Criteria defines a threshold value for "a significant economic impact" as $6,950 in 1990 dollars.

Of the 220 airports which qualify as small entities, none incur costs that exceed the threshold. These airports would experience some additional costs resulting from proposed requirements for training personnel having unescorted access to airport secure areas. The estimated costs for these airports range from about $100 to $2,000 a year with a median value of $150. These costs amount from security training and administrative requirements. (Costs to airports come from §§ 107.25 and 107.29).

Air carriers also would incur some additional costs as a result of the proposed rule. The threshold size for air carriers is nine aircraft operated by the certificate holder; and the cost threshold ranges from $51,000 for scheduled part 135 carriers to $107,900 for part 121 carriers.

Additional costs to small entities in these two air carrier groups would result from hiring additional checkpoint supervisors. Since these small entities operate only nine aircraft or fewer, they seldom have checkpoints at more than one or two airport and administrative costs would be small. (Costs to airlines would come from their compliance with the airports' requirements under §§ 107.25, and with 108.29 and 108.31). Hence, the additional cost would not exceed one-half of the threshold for part 135 operators or one-fourth the threshold for part 121 operators. Hence, the proposed rule would not have a significant economic impact on a substantial number of part 121 and part 135 small entities.

Hence, the FAA certifies that the proposed regulatory action would not have a significant economic impact on a substantial number of small entities.

Paperwork Reduction Act

The paperwork and recordkeeping burden associated with this notice will be submitted to the Office of Management and Budget for reveiw.

Lists of Subjects

14 CFR Part 107

Airports, Law enforcement officers, Reporting and recordkeeping requirements, Security measures.

14 CFR Part 108

Air carriers, aircraft, Law enforcement officers, Reporting and recordkeeping requirements, Security measures, X-rays.

The Proposed Amendment

In consideration of the foregoing, the Federal Aviation Administration proposes to amend parts 107 and 108 of the Federal Aviation Regulations (14 CFR parts 107 and 108) as follows:

PART 107—AIRPORT SECURITY

1.The authority citation for part 107 is revised to read as follows, and all other authority citations in this part have been removed:

Authority: 49 U.S.C. App. 1354, 1356, 1357, 1358, and 1421; 49 U.S.C. 106(g); Sec. 101, et seq., Pub. L. 101–604, 104 Stat. 3066.

2. A new paragraph (a)(5) is added to § 107.7 to read as follows:

§ 107.7 Changed conditions affecting security.

(a) * * *

(5) Any changes to the designation of the Airport Security Coordinator (ASC) required under § 107.29.

* * * * *

3. Section 107.25 is added to read as follows:

§ 107.25 Airport identification media.

(a) As used in this section, "security identification display area" means any area identified in the airport security program as requiring each person to continuously display an airport-approved identification medium unless the person is under airport-approved escort.

(b) After October 1, 1991, an airport operator may not issue to any person any identification media that provides unescorted access to any security identification display area unless the person has successfully completed training in accordance with an FAA-approved curriculum specified in the security program.

(c) By March 1, 1992, not less than 50 percent of all individuals possessing airport-issued identification that provides unescorted access to any security identification display area at that airport shall have been trained in accordance with an FAA-approved curriculum specified in the security program.

(d) After July 1, 1992, an airport operator may not permit any person to possess any airport-issued identification medium that provides unescorted access to any security identification display area at that airport unless the person has successfully completed training in accordance with a curriculum specified in the security program.

(e) The curriculum specified in the security program shall include instruction on at least the following topics:

(1) Control, use, a display of airport-approved identification or access media;

(2) Challenge procedures and the associated law enforcement support;

(3) Restrictions on divulging information concerning an act of unlawful interference with civil aviation if such information is likely to jeopardize the safety of domestic or international aviation;

(4) Non-disclosure of information regarding the airport security system or any airport tenant's security systems; and

(5) Any other topics deemed necessary by the Assistant Administrator for Civil Aviation Security.

(f) No person may use any airport-issued identification medium that provides unescorted access to any security identification display area to gain such access unless that medium was issued to that person by the appropriate airport authority.

(g) The airport operator shall maintain a record of all training given to each person under this section until 180 days after the termination of that person's unescorted access privileges.

4. Section 107.27 is added to read as follows.

§ 107.27 Evidence of compliance.

On request of the Assistant Administrator for Civil Aviation Security, each airport operator shall provide evidence of compliance with this Part and its approved security program.

5. Section 107.29 is added to read as follows:

§ 107.29 Airport Security Coordinator.

Each airport operator shall designate in its security program an Airport Security Coordinator (ASC). The ASC shall serve as the airport operator's primary contact for security-related activities and communications with FAA as set forth in the security program.

PART 108—AIRPLANE OPERATOR SECURITY

6. The authority citation for part 108 is revised to read as follows:

Authority: 49 U.S.C. App. 1354, 1356, 1357, 1421, 1424, and 1511; 49 U.S.C. 106(g); Sec. 101, et seq., Pub. L. 101–604, 104 Stat. 3066.

7. A new paragraph (d) is added to § 108.9 to read as follows:

§ 108.9 Screening of passengers and property.

* * * * *

(d) Each certificate holder shall staff its security screening checkpoints with supervisory and non-supervisory personnel in accordance with the standards specified in its security program.

8. A new paragraph (h) is added to § 108.17 to read as follows:

§ 108.17 Use of X-ray systems.

* * * * *

(h) Each certificate holder shall comply with X-ray operator duty time limitations specified in its security program.

9. Section 108.29 is added to read as follows:

§ 108.29 Standards for security oversight.

(a) Each certificate holder shall ensure that:

(1) Each person performing a security-related function for the certificate holder has knowledge of the provisions of part 108, applicable Security Directives and Information Circulars promulgated pursuant to § 108.18, and the certificate holder's security program to the extent that the performance of the function imposes a need-to-know.

(2) Semiannually, a Ground Security Coordinator at each station conducts a thorough evaluation of all security-related functions at that station and documents the results.

(3) Daily, a Ground Security Coordinator reviews the performance of all security-related functions for effectiveness and compliance with this Part, the certificate holder's security program, and applicable Security Directives.

(b) The requirements prescribed in paragraph (a) of this section apply to all security-related functions performed for the certificate holder whether by a direct employee or a contractor employee.

10. Section 108.31 is added to read as follows:

§ 108.31 Employment standards for screening personnel.

(a) No certificate holder shall use any person to perform any screening function, unless that person has:

(1) A high school diploma, a General Equivalency Diploma, or a combination of education and experience which the certificate holder has determined to have equipped the person to perform the duties of the position;

(2) The aptitudes and physical abilities to pass the screener performance tests and evaluations contained in the training program specified in the certificate holder's security program. Those aptitudes and physical abilities include color perception, visual and aural acuity, physical coordination, and motor skills;

(3) The ability to read, speak, and write in English; and

(4) Satisfactorily completed all initial, recurrent, and appropriate specialized training required by the certificate holder's security program.

(b) Notwithstanding the provisions of paragraph (a)(4) of this section, the certificate holder may use a person during the on-the-job portion of training to perform security functions provided that the person is closely supervised and does not make independent judgements as to whether persons or property may enter a sterile area or aircraft without further inspection.

(c) No certificate holder shall use a person to perform a screening function after that person has failed an operational test related to that function until that person has successfully completed the remedial training specified in the certificate holder's security program.

(d) A Ground Security Coordinator shall conduct and document a semiannual evaluation of each person assigned screening duties and shall continue that person's employment in a screening capacity upon the determination that a person:

(1) Has not suffered a significant diminution of any physical ability required to perform a screening function since the last evaluation of those abilities;

(2) Has a satisfactory record of performance and attention to duty; and

(3) Demonstrates the current knowledge and skills necessary to courteously, vigilantly, and effectively perform screening functions.

(e) Paragraphs (a) through (d) of this section do not apply to those screening functions conducted outside the United States over which the certificate holder does not have operational control.

(f) At locations outside the United States where the certificate holder has operational control over a screening function, the certificate holder may use screeners who do not meet the requirements of paragraph (a)(3) of this section, provided that at least one person with the ability to functionally read and speak English is present while the certificate holder's passengers are undergoing security processing.

Issued in Washington, DC on March 27, 1991.

Lynne A. Osmus,

Acting Director, Office of Civil Aviation Security Policy and Planning.

[FR Doc. 91-7693 Filed 4-1-91; 8:45 am]

BILLING CODE 4910-13-M

federal register

Tuesday
April 2, 1991

Part VII

Department of Agriculture

Food Safety and Inspection Service

9 CFR Parts 317 and 381

Nutrition Labeling of Meat and Poultry Products; Proposed Rule

DEPARTMENT OF AGRICULTURE

Food Safety and Inspection Service

[Docket No. 91-006N]

9 CFR Parts 317 and 381

Nutrition Labeling of Meat and Poultry Products

AGENCY: Food Safety and Inspection Service, USDA.

ACTION: Advance notice of proposed rulemaking.

SUMMARY: The Food Safety and Inspection Service (FSIS) is soliciting comments, information, data, and recommendations from consumers, industry, public health officials, and other interested parties to assist the Agency in developing proposed regulations for nutrition labeling of meat and poultry products. FSIS is committed to improving harmonization with the Food and Drug Administration (FDA) in regard to food nutrition labeling policies in order to provide consumers with the most uniform labeling system possible for all foods. FDA is undertaking various regulatory proceedings to comply with the Nutrition Labeling and Education Act of 1990, which requires mandatory nutrition labeling of most foods under FDA's jurisdiction. Thus, in line with FDA's nutrition labeling initiatives, FSIS is announcing its intent to propose both mandatory nutrition labeling regulations for most processed mean and poultry products and a voluntary program for fresh meat and poultry products, and is seeking public input relating to this endeavor.

DATES: Comments must be received on or before June 3, 1991.

ADDRESSES: Written comments to: Policy Officer, Attn: Linda Carey, FSIS Hearing Clerk, room 3171, South Building, Food Safety and Inspection Service, U.S. Department of Agriculture, Washington, DC 20250. Oral comments as provided by the Poultry Products Inspection Act should be directed to Mr. Charles Edwards at (202) 447-7680. (See also "Comments" under "SUPPLEMENTARY INFORMATION".)

FOR FURTHER INFORMATION CONTACT: Mr. Charles Edwards, Director, Food Ingredient Assessment Division, Regulatory Programs, Food Safety and Inspection Service, U.S. Department of Agriculture, Washington, DC 20250, (202) 447-7680.

SUPPLEMENTARY INFORMATION:

Comments

Interested persons are invited to submit written comments concerning this notice. Written comments should be sent to the Policy Office at the address shown above and should refer to Docket Number 91-006N. Any person desiring an opportunity for an oral presentation of views as provided by the Poultry Products Inspection Act should make such request to Mr. Edwards so that arrangements can be made for such views to be presented. A transcript will be made of all views orally presented. All comments submitted in response to this notice will be available for public inspection in the Policy Office from 9 a.m. to 12:30 p.m., and from 1:30 p.m. to 4 p.m., Monday through Friday.

Background

Introduction

The Federal Meat Inspection Act (FMIA) (21 U.S.C. 601 *et seq.*) and the Poultry Products Inspection Act (PPIA) (21 U.S.C. 451 *et seq.*) direct the Secretary of Agriculture to maintain inspection programs designed to assure consumers that meat and poultry products distributed in commerce or within designated States are wholesome, not adulterated, and are properly marked, labeled, and packaged.

FSIS regulates the labeling of meat and poultry products while FDA has responsibility over all other food labeling. FSIS conducts a prior label approval program under which all labeling to be used on, or in conjunction with, meat and poultry products must be approved by the Agency prior to their use. FDA, on the other hand, relies primarily upon food manufacturers to comply with prescribed labeling regulations and to ensure that information contained on food labels is truthful and not misleading.

FSIS also develops standards of identity and composition for certain meat and poultry products under section 7(c) of the FMIA (21 U.S.C. 607(c)) and section 8(b) of the PPIA (21 U.S.C. 457(b)). Under these authorities, FSIS has promulgated regulations prescribing standards of identity and composition. FSIS also has promulgated regulations prescribing the content and design of labels.

In 1973, FDA adopted a regulation, recodified in 1977 as 21 CFR 101.9, prescribing a specific labeling format to be included on food product labels when voluntary or mandatory nutrition information is provided. Currently required components that must be addressed include calories, protein, carbohydrates, fat, sodium, two mineral elements (calcium and iron), and five vitamins (vitamin A, vitamin C, thiamin, riboflavin, and niacin). FSIS disseminated its nutrition labeling guidelines for meat and poultry products through the issuance of several policy memoranda.[1] One memorandum provides that nutrition information for nutrient content may be presented in the format and style described in 21 CFR 101.9 for the required components. This memorandum also permits an abbreviated labeling format for the nutrient content of meat and poultry products that includes calories, protein, carbohydrate, fat, and/or sodium. In addition, FSIS permits other types of nutrition information to be presented, such as percentage fat-free claims.

Marketing Trends

Consumers are becoming increasingly aware of diet, health, and nutrition, and are concerned about the nutrient contents of their foods. As a result, food manufacturers are adding nutrient content claims to allow consumers to make more informed food purchases. Claims such as "lean," "low fat," and "low cholesterol" have become common in today's marketplace. These terms, however, have led to confusion and misunderstanding by consumers. The use of such terms is subject to various interpretations and may mislead the consumer when purchasing products so labeled.

Nutrition Labeling Endeavors

The issue of providing consumers with more accurate and informative labeling has prompted a series of undertakings by various segments of the government to provide more nutrition information on the labels of all foods. These endeavors are summarized below, most of which are further addressed under the section titled "FSIS Planned Regulatory Strategy."

1. *Congressional action.* On November 8, 1990, the Nutrition Labeling and Education Act of 1990 (NLEA), which amended certain provisions of the Federal Food, Drug, and Cosmetic Act, was enacted (Pub. L. 101-535; 104 Stat. 2353).[2] The NLEA requires mandatory nutrition labeling for most FDA-regulated packaged food products. It also requires FDA to issue voluntary nutrition guidelines to food retailers for providing nutrition information on 20 of each of the most frequently consumed (during a year) varieties of vegetables, fruits, and raw fish. Should food

[1] Copies of FSIS policy memoranda on nutrition labeling are available for public review in the FSIS Hearing Clerk's office. Copies may be obtained, without charge, from the FSIS Hearing Clerk.

[2] The NLEA is available for public review in the FSIS Hearing Clerk's office. Copies may be obtained, without charge, from the FSIS Hearing Clerk.

retailers fail to comply substantially with the guidelines, the NLEA requires FDA to issue mandatory requirements for these commodities.

2. *FDA regulatory initiatives.* In August 1989, FDA issued an advance notice of proposed rulemaking (ANPR) requesting comments on a wide range of labeling issues to determine what changes, if any, should be made on the labeling of foods regulated by FDA (54 FR 32610). In September 1989, FDA issued a notice of an extension of the comment period on the ANPR and announced a series of public hearings to be held throughout the Nation on food labeling (54 FR 38806). FSIS participated in these hearings, which were conducted by FDA in the fall of 1989. Issues discussed at the hearings related to nutrition labeling, ingredient labeling, descriptions of food, health messages, and nutrition label format.

After consideration of various comments received, FDA published a reproposed rule on February 13, 1990, on health messages (55 FR 5176), and three proposed rules on July 19, 1990, that would establish provisions on daily values for use in declaring nutrient content in nutrition labeling (55 FR 29476), that would require mandatory nutrition labeling on most food products that are meaningful sources of calories or nutrients (55 FR 29487), and that would define serving and portion sizes (55 FR 29517). FDA also published a tentative final rule on July 19, 1990 (55 FR 29456), prescribing regulations that define and provide for the use of the terms "cholesterol free," "low cholesterol," and "reduced cholesterol" in the labeling of foods.

The NLEA, as previously discussed, was enacted in November 1990, several months after FDA published its proposed rules and tentative final rule on food labeling. As a result, on January 11, 1991, FDA published a proposed rule (56 FR 1151) recognizing the impact of the NLEA on its pending rulemaking proceedings dealing with food labeling. FDA announced its plans to obtain comments in some form, or issue reproposals or supplemental proposals in some form, to ensure that all such regulations are consistent with the NLEA.

3. *NAS study.* In 1989, FSIS and the Public Health Service, U.S. Department of Health and Human Services (HHS), which includes FDA, jointly sponsored a study by the Institute of Medicine of the National Academy of Sciences (NAS) to provide options for improving food labeling. In its 1990 final report, NAS recommended that FSIS and FDA mandate nutrition labeling for all packaged foods under their respective jurisdictions, except for certain exemptions.[3] In addition, NAS presented recommendations on various facets of nutrition labeling including nutrition label content, serving sizes, U.S. Recommended Daily Allowances, adjectival descriptors, and ingredient labeling.

4. *Serving size meeting.* On April 4, 1991, FSIS will be participating in an FDA public meeting on food labeling to discuss issues related to how serving and portion sizes should be determined and be presented as part of the nutrition labeling of foods. This meeting was announced in the **Federal Register** on February 26, 1991 (56 FR 8084). Comments received at the meeting will be given thorough consideration in the development of proposed rules on nutrition labeling by FSIS.

FSIS Planned Regulatory Strategy

FSIS recognizes that mandatory nutrition labeling of foods has wide support from consumers, industry, State and local governments, and health professionals.[4] The NAS study recommended, among other things, that nutrition labeling be mandated on all packaged foods under the respective jurisdictions of FDA and FSIS, except for certain exemptions. Although the NLEA mandates nutrition labeling only on foods regulated by FDA, FSIS, in line with labeling harmonization endeavors, is considering various options for as much of a parallel nutrition labeling system for meat and poultry products as is possible. However, given the distinct labeling responsibilities of FSIS and FDA, and the differences in the products regulated by each, some labeling differences between the two agencies will continue to exist.

FSIS has concluded that it has statutory authority to mandate nutrition labeling for meat and poultry products, based upon the Secretary's belief that meat and poultry products would be misbranded in the absence of such information on their labeling, regardless of whether nutrition claims are made about such products on their labeling or in advertising, and regardless of whether or not nutrients are added to these products. FSIS's authority to mandate nutrition labeling on meat and poultry products is based upon the statutory provisions on misbranding in the FMIA and PPIA (21 U.S.C. 601(n) (1), (6), (10) and (12) for the FMIA and 21 U.S.C. 453(h) (1), (6), (10), and (12) for the PPIA), and the general rulemaking provisions of these Acts (21 U.S.C. 621 and 453, respectively). The Agency plans to publish simultaneously separate proposed rules which address the major elements of nutrition labeling. These proposed rules will present the complete package of nutrition labeling of meat and poultry products at one time, allowing consumers to consider the full scope of nutrition labeling and providing consideration to all segments of industry.

FSIS has already advised consumer and other public interest groups and industry representatives of the challenges and options facing the Agency regarding mandatory nutrition labeling. FSIS plans to continue to seek comments from consumer and industry groups to ensure that FSIS's proposals are based upon the most appropriate approaches for all involved parties that are authorized by the FMIA and the PPIA.

As its first step in developing nutrition labeling proposals, FSIS has identified the following food labeling issues that are of particular concern to the Agency, along with FSIS's tentative positions on these issues. FSIS encourages comments on this notice from all affected parties. The Agency is particularly interested in receiving comments in the specific areas addressed below, and has presented questions on most issues addressed below for public consideration and response.

1. Mandatory Nutrition Labeling

A. Background

FSIS requires food manufacturers to obtain prior approval for the content and design of labeling for meat and poultry products before the products may be marketed. FSIS permits and encourages voluntary nutrition labeling using formats set forth in Agency policy memoranda. Approximately 35 to 50 percent of processed, packaged meat and poultry products currently bear nutrition labeling. FSIS requires manufacturers to provide nutrition data to substantiate nutrition claims. Additional information, when necessary to facilitate consumer understanding of these claims, is required.

NAS recommended that FSIS promulgate regulations that mandate nutrition labeling for most packaged foods under its jurisdiction, including institutional-size packages and commodities distributed through USDA food programs, and the 20 to 30 top items of fresh/frozen meat and poultry

[3] The NAS final report titled "Nutrition Labeling: Issues and Directions for the 1990s" is available for public review in the FSIS Hearing Clerk's office. Copies of the report are available for sale from the National Academy Press, 2101 Constitution Avenue, NW., Washington, DC 20418.

[4] For purposes of this document, the term "consumers" refers to household consumers.

products. It suggested that values for the latter be provided using point-of-purchase information developed from data base values.

NAS suggests excluding only small packages, and foods that have no nutritional significance and that do not make a claim with respect to nutritional value. As noted previously, the NLEA requires mandatory nutrition labeling of most foods under FDA's jurisdiction. Among exemptions from mandatory nutrition labeling specified in the NLEA are persons who offer food for sale and have annual gross sales made or business done in sales to consumers of not more than $500,000 or who have annual gross sales made or business done in sales of food to consumers of not more than $50,000, with respect to food sold by such persons to consumers unless the label or labeling of food offered by such person provides nutrition information or makes a nutrition claim; food served in restaurants; foods in certain retail establishments; and certain small packages.

B. Issues and FSIS Tentative Positions;

Issue 1. Nutrition labeling of meat and poultry products.—The nutrition label is a primary source of nutrition information for most Americans; it is, therefore, an important health education tool. Not only do several surveys demonstrate that a majority of consumers seek nutrition labeling, a September 1989 Roper poll shows that consumers use the nutrition label on food packages about six times more often than any other source of nutrition information, including newspapers, magazines, and television.[5] A nutrition labeling program should not only provide consumers with information that can and will be used to select foods that meet their individual dietary needs, but should also be an effective nutrition education tool.

In developing its position on nutrition labeling, FSIS considered processed meat and poultry products and fresh meat and poultry products separately because of differences in the production and marketing practices of the two types of product. For federally inspected processed meat and poultry products, FSIS considered only a mandatory program to parallel FDA's approach. However, in the case of federally inspected fresh meat and poultry products, FSIS considered the following three options.[6]

One option is to establish voluntary guidelines for nutrition labeling for all fresh meat and poultry products in retail packages. This general approach is consistent with the NLEA.

A second option is to establish mandatory nutrition labeling only for fresh meat and poultry products in retail packages packed and labeled in official establishments. Enforcement could be easily monitored; however, this option would treat identical products packaged in official establishments differently from those packaged at the retail level. Since fresh poultry products are typically packaged and labeled at official establishments, as compared to most meat products which are generally packaged and labeled at retail, this option would obviously impact more significantly on poultry establishments. This, in effect, would create regulatory inconsistency between the meat and poultry industries, as currently operated, and could cause a shift in packaging and labeling practices within the poultry industry to make it more consistent with the meat industry. Furthermore, this option would not fully respond to NAS recommendations and is not consistent with the NLEA.

The last option considered in this area is to establish mandatory nutrition labeling for all fresh meat and poultry products in retail packages. This option would provide consistent nutrition labeling information on all meat and poultry products. In addition, it would not discriminate between products packaged and labeled at the official establishment and those packaged and labeled at the retail level. However, enforcement at the retail level would be difficult and costly. This option would also seem to favor larger establishments, larger retailers, and larger volume products because of their ability to achieve economies of scale in labeling.

FSIS Tentative Position.—FSIS tentatively intends to establish mandatory nutrition labeling for most processed meat and poultry products, and to permit voluntary nutrition labeling on major retail cuts of fresh meat and poultry products. This concept would ensure some harmony with the FDA program that is required to be implemented under the NLEA. Because packing, distribution, and marketing practices vary greatly between the meat and poultry industries, as well as within each such industry, FSIS concludes that a voluntary program would be the best approach for providing nutrition labeling for fresh meat and poultry products. Any producer of federally inspected fresh meat and poultry products may voluntarily opt to provide nutrition labeling on such products. It is our expectation that these producers would follow the same requirements to be prescribed for the mandatory nutrition labeling program, including format, serving sizes, and descriptors. A voluntary program would provide manufacturers and retailers with experience in providing this service to consumers, and consumers with experience in using nutrition labeling for these products. FSIS is aware of existing point-of-purchase materials available to consumers which include nutrition information on certain meat and poultry products. The Agency is considering whether such point-of-purchase materials should be incorporated into its nutrition labeling program and how that may be accomplished.

Issue 2. Exemptions. It is impractical to require nutrition labeling of food products that are too small to carry such information. Additionally, consumers would not benefit from nutrition labeling on products that are not sold directly to consumers, such as products intended for further processing. As a general rule, meat and poultry products are the most expensive food items in the average diet. The Economic Research Service reports that, although meat and poultry products constitute only 15 percent of food purchased, such purchases account for about one-third of the money consumers spend on food.[7]

FSIS Tentative Position.—FSIS believes that it should exempt small businesses (businesses with limited sales), very small packages, and foods that are to be used in further processing. Because meat and poultry products contain much more expensive ingredients than nonmeat and nonpoultry products, FSIS believes that the gross revenue standard used to define a small business for purposes of meat and poultry nutrition labeling requirements may need to be higher than the standard applied to labeling

[5] A copy of these surveys is available for public review in the FSIS Hearing Clerk's office. Copies of those portions of the survey referenced herein are available, without charge, from the FSIS Hearing Clerk.

[6] For the purposes of this document, the term "fresh" refers to single-ingredient, unprocessed meat and poultry raw products, including those that have been frozen. Fresh products are limited to retail cuts of meat and poultry not subjected to any processing procedures that would significantly alter nutrient content. Hamburger or a cut-up chicken would be considered fresh; bacon or a basted turkey would be considered processed.

[7] These statistics are contained in a report issued by the Economic Research Service titled "Food Cost Review", July 1990, Agricultural Economic Report No. 636. A copy is available for public review in the FSIS Hearing Clerk's office. Those portions of the report referenced herein are available, without charge, from the FSIS Hearing Clerk.

requirements for nonmeat and nonpoultry producers.

Issue 3. Implementation of nutrition labeling. The NLEA mandates deadlines for FDA's publication and implementation of mandatory nutrition labeling regulations. The implementation date, except for a few exceptions, set by the NLEA for mandatory nutrition labeling and health claims is May 1993.

FSIS Tentative Position.—FSIS plans to follow FDA's mandated timeframe in order to provide simultaneous mandatory nutrition labeling regulations for meat and poultry products.

C. Questions for Public Response

(1) Should point-of-purchase materials be incorporated into the nutrition labeling program and, if so, how?

(2) Is there any reason for FSIS to differ from FDA, as prescribed in the NLEA, in regard to the gross revenue ceiling established for exempting small businesses from nutrition labeling requirements?

(3) Will the tentative May 1993 implementation date for nutrition labeling of meat and poultry products allow a sufficient timeframe for industry compliance?

2. Nutrition Label Content

A. Background

The NLEA mandates that the amount of the following food constituents be included on the labeling of non-exempted food products: Calories derived from any source, calories derived from the total fat, total fat, saturated fat, cholesterol, total carbohydrates, complex carbohydrates, sugars, dietary fiber, total protein, and sodium. Also required to be included is any mineral, vitamin, or other nutrient required to be placed on the label or labeling of food under the Federal Food, Drug, and Cosmetic Act before October 1, 1990, if the Secretary of HHS determines that such information will assist consumers in maintaining healthy dietary practices. The NLEA allows FDA, by regulation, to add other nutrients to the list of nutrients that should be included on the labeling of foods subject to the NLEA, if this will help consumers to maintain healthy dietary practices. It allows FDA, by regulation, to remove nutrients required to be listed, if the Secretary of HHS determines that the information relating to the nutrient is not necessary to assist consumers in maintaining healthy dietary practices. The NLEA specifies that a simplified nutrition label format is to be used when a food contains insignificant amounts of more than one-half of the required nutrients required to be listed.

During consideration of the NLEA, Congress had received testimony that certain saturated fatty acids, such as stearic acid, do not increase blood cholesterol and, thus, should not be counted as saturated fat on the nutrition label (H. Rep. No. 101–538, 101st Cong. 2nd Sess. 14). In the House Report on the NLEA, H. Rep. No. 101–538, 101st Cong. 2nd Sess. 14, Congress confirmed FDA's authority under the Act to provide definitions for nutrients, such as saturated fat, to be included on the label. Congress indicated that these definitions would give manufacturers a precise definition of the nutrients so that they would know the type of analysis to conduct on the food. Congress further stated that FDA "has the discretion to define saturated fat in a way that excludes specified fatty acids, such as stearic acid, if the Secretary determines that such an exclusion is consistent with the public health and is based on sound scientific principles" (H. Rep. No. 101–538, 101st Cong. 2nd Sess. 14).

In its July 19, 1990, proposal on mandatory nutrition labeling, FDA proposed to add calories from total fat, amounts of saturated fatty acid, cholesterol, and total dietary fiber, except if a serving (portion) contains less than a specified amount, to the list of nutrients it currently requires to be listed, and to remove the requirement that thiamin, riboflavin, and niacin be declared except in certain circumstances, because public health concerns for deficient intakes of these B vitamins has lessened considerably in the last 20 years. It proposed to permit voluntary disclosure of complex carbohydrates and sugars, unless a claim is made with respect to sugar, because dietary guidance recommendations for these foods components are not quantified by consumption goals. FDA also recognized that there is a general consensus that the cholesterol-raising fatty acids are primarily lauric, myristic, and palmitic, and that current evidence indicates that stearic acid does not raise serum cholesterol. FDA requested comments as to which fatty acids should be classified as saturated.

NAS recommended optional disclosure of complex carbohydrates and sugars stating that "foods containing high proportions of complex carbohydrates are highly desirable for overall good health, not necessarily because of their specific contribution to chronic disease prevention but because these foods are usually low in fat and calories and are high in fiber." It argued that legitimate concerns about simple sugars center on dental caries, nutrient dilution, and excess calories, as opposed to their contribution to certain disease conditions. NAS also noted that many industry groups have raised questions about whether current analytical methods are adequate to support mandatory disclosure of complex carbohydrates and sugars. Besides recommending compulsory disclosure of the other food constituents listed by name in the NLEA, NAS favored required disclosure of unsaturated fat, calcium, and iron. It proposed that listing of vitamins, including vitamins A and C, be allowed as an option. In regard to saturated fat, NAS noted that a substantial body of scientific evidence has confirmed that the serum cholesterol-raising fatty acids are primarily lauric, myristic, and palmitic acids and that, unlike these saturated fatty acids, stearic acid does not elevate serum cholesterol levels. However, it now is currently classified as saturated for purposes of nutrition labeling.

B. Issues and FSIS Tentative Position

Issue 1. List of required nutrients and components. In the past, public health concerns focused largely on nutritional deficiencies and dietary inadequacies, which generated an interest in the content of essential micronutrients in foods. Today, in this country, there are few deficiency diseases caused by inadequate intakes of vitamins or minerals, but there is a growing body of scientific evidence that dietary patterns have major implications for health and for risk or mitigation of certain diseases. Dietary recommendations of Federal agencies, as expressed in the "Dietary Guidelines for Americans," now include messages about calories, fat, saturated fat, cholesterol, fiber, complex carbohydrates, sugars, and sodium. Consumers are increasingly interested in the levels of these and other components in various food products. This information helps them to make dietary choices that benefit their health.

The advice of health experts that consumers reduce their intake of saturated fat appears to be based primarily on the serum cholesterol-raising effect of most saturated fatty acids. In addition, consumer nutrition awareness initiatives have educated consumers to associate the term "saturated" fat with a cholesterol-raising effect.

FSIS Tentative Position. In the interest of label harmonization, FSIS anticipates that it will adopt FDA's July 1990 proposal's approach for the list of nutrients and components required to be listed. Because NAS recommends

optional disclosure of complex carbohydrates and sugars, FSIS seeks comments on the usefulness of including complex carbohydrates and sugars on the label. The Agency is also interested in receiving comments as to which fatty acids should be included in the definition of saturated fat. FSIS believes the required nutrients should be those with demonstrated health implications and those that can be accurately determined. In addition, there are limits to the amount of information that can be placed on a nutrition label and the amount that is helpful to consumers.

Issue 2. Format. The format of the nutrition label is an important topic that is being intensively investigated by FDA and industry.

FSIS Tentative Position. FSIS anticipates reviewing the studies and working with FDA to try as much as possible to ensure that the same format is used for all foods.

Issue 3. Nutrition label content in abbreviated format. The use of an abbreviated format helps to keep space requirements of the nutrition label to a minimum. If a product contains insignificant amounts of nutrients and does not make a claim with respect to nutritional value, it is not helpful to consumers to include such nutrients in that product's nutrition label format.

FSIS Tentative Position. FSIS supports consistency in the type of information presented on nutrition labels. However, the Agency recognizes that if the threshold requirements for a simplified form for nutrient listing, as outlined in the NLEA, were applied to meat and poultry products, such products would rarely be eligible for the abbreviated formats. The Agency believes that manufacturers should be allowed to omit some of the mandatory nutrients or food components from the nutrition label format if they are present in the product in insignificant amounts and no nutritional value claim is made on the product's labeling. FSIS would require that, at a minimum, the labeling include total calories, total fat, saturated fat, cholesterol, total carbohydrates, protein and sodium. With the exception of saturated fat and cholesterol, which are present in all meat and poultry, this is consistent with FDA's proposed minimal listing of required nutrients and food components (55 FR 29502). Insignificant amounts of other mandatory nutrients for which no nutritional claim is made would be noted in a statement such as "Not a source of other nutrients of public health significance." Abbreviated formats would avoid providing unnecessary information to consumers on food components or nutrients in insignificant amounts and would keep the label simple and easy to read. Also, an abbreviated format would alleviate space problems often incurred with some labels. The importance of an abbreviated format is recognized in the NLEA and in the NAS report.

C. Questions for Public Response

(1) Should the listing of food components and nutrients present in insignificant amounts be mandatory?

(2) How should "insignificant" be defined and what factors should be used to constitute "insignificant" amounts?

(3) Should the listing of complex carbohydrates be mandatory?

(4) Should the listing of sugars be mandatory?

(5) What fatty acids should be included in the definition of "saturated fat" and how should this be determined?

(6) What nutrition label format will be used and understood by most consumers?

3. U.S. Recommended Daily Allowances

A. Background

FSIS follows current FDA requirements, set forth in 21 CFR 101.9, concerning use of the U.S. Recommended Daily Allowances (U.S. RDA's) in nutrition labeling. FDA established this single set of values for regulatory use in declaring contents of vitamins and minerals in 1973 (38 FR 2125).

In its July 19, 1990, proposed rule on daily values, FDA proposed to update and expand the current U.S. RDA's with Reference Daily Intakes (RDI's) to provide a basis for consumers to compare the protein, vitamin, and mineral contents of foods. FDA noted that its proposal to revise the U.S. RDA's was based primarily on the 1989 Recommended Dietary Allowances (RDA's) and Estimated Safe and Adequate Daily Dietary Intakes (ESADDI's) of the National Research Council of NAS (except for chloride).

FDA proposed Daily Reference Values (DRV's) for eight other food components including total fat, saturated fatty acid, cholesterol, and sodium for which RDA's and ESADDI's have not been established but that are important in diet and health interrelationships. The RDI's and DRV's are meant to serve as reference values for labeling purposes only, as opposed to dietary intake recommendations. They are intended to help consumers compare how nutrient levels in various foods contribute toward general recommendations for a total diet and to facilitate graphical presentations of nutrient information.

NAS recommended that FDA update the U.S. RDA's and that U.S. RDA's for vitamins and minerals, other than calcium and iron, in the absence of compelling nutritional justification, should be provided on an optional basis, for children under 2 years of age. It also suggested that Federal agencies require use of the descriptions "very good source of," "good source of," or "contains" to express contents of required or optional micronutrients in food. NAS suggested that these descriptors might be defined in terms of percent ranges of the U.S. RDA'S. NAS suggested this approach because consumers might not understand the concepts of U.S. RDA's and percentages, and because the use of percentages might produce an incentive to overfortify foods.

B. Issues and FSIS Tentative Position

Consistent with past practice, and in the interest of nutrition label harmonization, FSIS plans to parallel FDA's reference values. However, FSIS recognizes that FDA has not finalized these values, and that FSIS may have to reconsider this position.

4. Serving Sizes

A. Background

FDA regulations stipulate that a "serving" is a reasonable quantity of food suited for or practicable of consumption as part of a meal by specified people, and "portion" as the amount of food customarily used only as an ingredient in the preparation of other foods (21 CFR 101.9(b)(1)). FSIS permits nutrient values to be listed per serving with the size of the serving expressed in common household measures. Alternatively, FSIS allows use of portion sizes for foods that are not used only as ingredients in the preparation of other foods, but also for food in which the manufacturer's serving size is less than that commonly accepted for a serving of the particular food. Industry generally determines the serving or portion sizes stated for their products. FSIS exercises control over the use of the terms "serving" versus "portion" during the prior label approval process. FSIS's "Standards and Labeling Policy Book" currently defines a "dinner" as a product with a minimum serving size of 10 ounces, a minimum of three components, and a minimum meat or poultry content requirement depending on the product name.[8]

[8] The referenced portion of the "Standards and Labeling Policy Book" is available for public review in the FSIS Hearing Clerk's Office. Copies of that portion may be obtained, without charge, from the FSIS Hearing Clerk.

FSIS has long been aware of public concern that, in many cases, allowed serving sizes are neither reasonably consumed amounts nor consistent across similar food products. On December 21, 1979, USDA, the Department of Health, Education, and Welfare (predecessor to the U.S. Department of Health and Human Services), and the Federal Trade Commission published an advance notice of proposed rulemaking titled "Food Labeling; Tentative Positions of Agencies" (44 FR 75990). The notice stated that USDA would propose regulations to establish serving sizes for foods needing them. However, this action did not occur.

To make nutrition information on food labels meaningful, the NLEA requires FDA to establish standards to ensure that nutrition labeling provide the serving size which is an amount customarily consumed and is expressed in a common household measure appropriate to the food.

NAS recommended that FDA and USDA jointly establish sizes for limited, broad categories of foods to help consumers make product comparisons. NAS suggested basing them on standard serving sizes as specified by dietary guidance recommendations to make their use in educational programs less difficult and to permit consistency among serving sizes shown in dietary guidance material and on the food label. NAS also advocated a petition process for desired deviations from the serving size set by FDA and USDA or for creation of different food subcategories with other serving sizes.

B. Issues and FSIS Tentative Position

Issue 1. Standardized size unit.—Prior to developing proposed rules on serving sizes, FSIS plans to consider, among other things, all comments received in response to this notice, as well as those comments received at the FDA meeting on April 4, 1991, to address the issue of serving sizes for foods. At this point, however, FSIS is considering several options for serving sizes for all meat and poultry products, except for meal-type products and piece or unit products which are further discussed in this document.

One option being considered is the establishment of one uniform standardized size unit such as 1 ounce or 100 grams. Fresh meat and poultry products and some processed products are packaged in an infinite variety of sizes, and are packaged and then weighed, rather than weighed and then packaged. It is virtually impossible for such products to have an integral number of standardized servings. A 1-ounce unit would provide the easiest method for conversion to multiples, and allow consumers to make comparisons between meat and poultry products easily and readily. A possible problem with this option is that consumers may not realize that the information has to be converted to be meaningful in terms of the amounts they eat. This could be remedied, however, through nutrition education.

A second option being considered is the establishment of a standard serving size for meat and poultry products using food consumption data. This would be partially consistent with FDA's proposal and the NLEA. FDA proposed in July 1990 to establish standard serving sizes for 159 categories of foods, whereas FSIS would establish only one standard serving size for the general category of meat and poultry products. FDA considered their approach to be the best method because of the wide diversity of food and food products they regulate. This option presents several problems. There is variability in the typical serving size eaten by an individual, depending on the caloric needs, the meal at which the food is consumed, and the way the food is packaged. In addition, food consumption data is self-reported and does not represent the recommended amounts established in the dietary guidelines; therefore, it has inherent limits.

The third option being considered is the establishment of a standard serving size for meat and poultry products using dietary recommendations. This would provide nutrition information on the recommended portions of foods. However, it would not provide information on what is actually being consumed.

Issue 2. Serving sizes for meal-type products and food products in pieces or units. For the purposes of this notice, a meal-type product is any product that is packaged for use by one person, that contains ingredients from multiple food groups, and that is typically the main food item for a meal (commonly referred to as an entree). Foods that fall under this definition include many convenience products such as pizzas for one, T.V. dinners, and chicken pot pies. Since meal-type products are typically consumed by one person and make up the major portion of a meal, it would be more meaningful to provide consumers with nutrition information on these products in terms of the entire product. The consumer would have nutrition information on exactly what he or she is purchasing and would be able to readily evaluate how this product fits into his or her total diet.

Products in pieces or units are those products marketed as one entity, but which contain a multiple number of uniform pieces or units intended to be more than one serving. A piece or unit is readily identified as an individual portion, such as a 1-ounce slice of luncheon meat, or a complete serving in itself, such as a hot dog.

FSIS Tentative Position. FSIS plans to propose nutrition labeling for meal-type products, packed for use by one person, in their entirety and for piece or unit products, that contain only uniform pieces or units, by each uniform piece or unit. A piece or unit that is less than 1 ounce is not likely to be, or intended or perceived to be, a serving for one person, such as in the case of cocktail-size link sausages. In such cases, the nutrition information would be based on 1 ounce.

Issue 3. Nutrition information based on serving size as packaged or as consumed. FSIS is aware that consumers are interested in nutrition information on products as consumed (prepared and cooked). However, the Agency is concerned that this information may not be useful to consumers since nutrition information is based on specific cooking and preparation methods. If consumers do not prepare and cook the product according to the instructions on the package, the nutrition information may be misleading. This is an especially serious health concern for consumers who are on restricted diets as part of or as the sole treatment of a medical condition. Allowing nutrition information to be presented on an "as consumed" basis together with the same information on an "as packaged" basis may be helpful to the consumer. However, this would result in dual declaration on the label which may ultimately prove to be too confusing to offer any benefits to consumers.

FSIS Tentative Position. FSIS plans to require nutrition labeling on products "as consumed." The Agency recognizes that preparation and cooking methods can significantly alter the nutrient composition of a food. It may be useful to provide nutrition information on foods as cooked using recommended methods without the use of salt, flour, cooking oil, or other such added ingredients. Nutrition education is the key to teaching consumers to consider preparation methods in planning a healthful diet.

Issue 4. Units of measure. It is important that the standard units be readily understandable by consumers. Meat and poultry products are usually priced and sold in pounds and ounces.

Therefore, consumers are familiar with these units of measure as they relate to meat and poultry products. However, the United States exports products to countries where the common units of measure are metric.

FSIS Tentative Position. FSIS believes that the use of weight as expressed as ounces for meat and poultry products would be useful to consumers. In fact, the common household unit of measure for most meat and poultry products is ounces. Therefore, FSIS believes that the use of the ounce as the unit measure in the nutrition label will be meaningful to consumers. However, in the interest of promoting free trade and international harmonization of nutrition labeling, FSIS believes the use of grams should be optional.

C. Questions for Public Response

(1) What criteria should be used to define "meal-type products" (marketed for one person)?

(2) Would it be helpful to consumers to provide nutrition information for meal-type items in their entirety?

(3) Should nutrition label information for uniform piece or unit items (e.g., hot dogs) be presented on a unit basis?

(4) If nutrition labeling information were presented on an "as consumed" basis:

(a) Should FSIS restrict the preparation and cooking methods used to determine these values?

(b) Should FSIS require preparation and cooking instructions, such as times and temperatures, or the internal cooking temperature?

5. Descriptors and Health Messages

A. Background.

The Standards and Labeling Division (SLD) of FSIS has issued several policy memoranda outlining its criteria for permitting the use of selected descriptors such as "low calorie," "low sodium," "low fat," and "lean." [9] For many years, the SLD's definition for "lean," except as applied to ground beef, hamburger, and products containing added substances, such as water or extenders, has been no more than 10 percent fat content. The memoranda currently require at least a 25 percent reduction from specific reference points for comparative expressions such as "lower." SLD also uses informal working policies for descriptors for some food constituents, such as cholesterol in meals and fiber. FSIS has no regulatory definitions for any descriptive terms.

[9] Copies of these policy memoranda are available for public review in the FSIS Hearing Clerk's office. Copies may be obtained, without charge, from the FSIS Hearing Clerk.

The Agency does not permit health claims, i.e., those explicitly linking food attributes to disease or health-related conditions. However, FSIS does permit the inclusion on labels of health recommendations from authoritative sources such as the National Cholesterol Education Program and references on how a food can fit into general recommendations for a total diet.

To alleviate widespread public confusion associated with descriptors, the NLEA contains requirements regarding both nutrient content level claims and health claims. It precludes, except for specified limited exceptions, the use of any nutrient content term that characterizes the level of any nutrient that has not been defined by FDA by regulation, and requires FDA to define "free," "low," "light" or "lite," "reduced," "less," and "high." The NLEA places limitations on cholesterol, saturated fat, and dietary fiber claims for a food by requiring these claims to be accompanied by prominent disclosure of the food's level of fat or saturated fat, cholesterol, and total fat, respectively, on the label. The NLEA does not address the use of cholesterol claims based on threshold criteria for fat or saturated fat content. It requires, except as specified, the FDA adopt health-claim regulations that prohibit health claims for foods which FDA determines to contain any nutrient in an amount that increases the risk to persons in the general population of a disease or health related condition which is diet-related, taking into account the contribution of the food in the daily diet.

Currently, FDA has regulatory definitions for descriptors about calories and sodium (21 CFR 101.13 and 105.66, respectively). On July 19, 1990, FDA published a tentative final rule, "Food Labeling; Definitions of the Terms Cholesterol Free, Low Cholesterol, and Reduced Cholesterol," to amend its food labeling regulations in order to define and provide for the proper use of these cholesterol descriptors (55 FR 29456). In the document, FDA tentatively proposed threshold levels for fat that establish conditions for the use of cholesterol content claims. FDA has developed informal policy for trial shelf-labeling programs covering descriptors for fat, fiber, calcium, and for defining "* * * source of," such as "good source of." On February 13, 1990, FDA published a docket, "Food Labeling; Health Messages and Label Statements; Reproposed Rule," to protect consumers from false and misleading health claims and to ensure provision of accurate information (55 FR 5176).

Although health claims were beyond the scope of the NAS study, NAS indicated in its report that quantitative descriptors of nutrient content that deviate from the norm should be limited to two categories, that is, low and very low, or high and very high, and that the two low and high levels should represent a relative nutrient content that can be expected to have significantly different biological effects.

"The Surgeon General's Report on Nutrition and Health," issued in 1988, states that descriptive terms such as "low calorie," in compliance with FDA's regulations, may be helpful in informing people about the nutrient content of foods and encouraged their expanded use.[10]

B. Issues and FSIS Tentative Position

Issue 1. Descriptors. Public health concerns focus on growing scientific evidence that link dietary patterns to the risk or mitigation of certain diseases. In planning their diets, consumers need truthful and nonmisleading statements concerning nutrients that have strong health implications. Descriptors are a means by which consumers can readily identify nutrient attributes of a product.

FSIS Tentative Position. Uniform descriptors, when coupled with nutrition education efforts, could facilitate dietary improvement. FSIS anticipates adopting whatever definitions of descriptors are established by FDA. FSIS also plans to establish additional descriptors that will apply to meat and poultry products, and to consider the use of other descriptors on a case-by-case basis under its prior label approval process.

Issue 2. Descriptors unique to meat and poultry products. The Surgeon General and many health organizations have made recommendations on the appropriate maximum levels of fat and cholesterol in a healthy diet.

Uniform descriptors are easy to understand and convey. However, the descriptors established by FDA for "low fat" and "low cholesterol" are likely to be so restrictive that very few meat and poultry products will be able to use them, since most meat and poultry naturally contain fat and cholesterol. However, the amount of these components in a meat and poultry product may vary greatly. Descriptors unique to meat and poultry products would help to characterize meat and poultry, taking into account their role in the total diet and FSIS intends to have

[10] The referenced portion of this report is available for public review in the FSIS Hearing Clerk's Office. Copies of that portion are available without charge, from the FSIS Hearing Clerk.

these. Such descriptors would allow consumers to select products from the meat and poultry food groups that contribute to a varied diet and a healthy meal plan.

FSIS Tentative Position. FSIS encourages the production of nutritious products that are low in fat and cholesterol. FSIS believes it is in the best interest of the consumer to establish descriptors unique to meat and poultry products that will differentiate between products with lower levels of fat and cholesterol. Examples of such terms include "lower" and "extra lean."

The Dietary Guidelines for Americans recommends that consumers select a certain number of servings within each food group. To make such selections, consumers have to be able to compare foods within food groups, rather than across food groups, to achieve a total diet that is low in fat, saturated fat, and cholesterol. By providing additional, specific descriptors for meat and poultry products, FSIS would provide consumers the means to make comparisons among meat and poultry products.

Issue 3. Descriptors for meal-type products. Descriptors, such as those currently in place for dinners, are used by consumers to help select foods that fit their specific dietary needs and preferences. FSIS has been asked to expand the use of descriptors to include all meal-type items.

FSIS Tentative Position. FSIS intends to establish descriptors for meal-type products to help consumers make informed choices.

Issue 4. Comparative claims. Comparative claims help consumers to select products that best meet their individual needs. They also serve as a stimulus to industry to develop and produce products that are more nutritious. An example of a comparative claim is "____% less fat than the regulatory standard."

FSIS Tentative Position. To help consumers select products that improve their diets, FSIS plans to publish proposed regulations on comparative claims. The Agency proposes to require that products making comparative claims must contain a minimum reduction of at least 25 percent of the compared component.

Issue 5. Health messages. Health messages refer to statements concerning reducing the risk, or forestalling the premature onset, of certain chronic serious disease conditions, e.g., coronary heart disease, high blood pressure, cancer, and osteoporosis, through changes in the diet. Health-related messages, when properly stated, provide valuable information to health-conscious consumers. They can complement the information provided in the nutrition panel by assisting the consumer in identifying how to incorporate the food product into their total diet.

FSIS Tentative Position. FSIS expects to adapt the health message policies established by FDA, as appropriate, to meet the needs of meat and poultry products.

C. Questions for Public Response

(1) What criteria should be used to define descriptors that characterize the different levels of fat and cholesterol for meat and poultry products and what should these descriptors be called?

(2) How should descriptor criteria be tied into products with the nutrition information?

(3) What criteria should be used to establish descriptors for meal-type products?

6. Food Ingredients and Standards of Identity

A. Background.

FSIS regulations require, except for specified exceptions, the ingredients of all meat and poultry products that are fabricated from two or more ingredients to be listed on the product's label by their common or usual names in descending order of predominance (9 CFR 317.2(f) (1) and (2) and 381.118). This is required whether or not the product has a standard of identity (except those for margarine). The current labeling policy does not require the ingredient statement of meat and poultry products to bear a sublisting of ingredients of some foods, such as cheddar cheese and soy sauce, that are incorporated into the final product. FSIS permits disjunctive labeling of fats and oils and also use of the general term "vegetable oil" instead of common names when "and/or" labeling is used.

FSIS has established many standards of identity and composition by regulation (9 CFR 319 and 381) and labeling by requirements through ad hoc label approvals under the FMIA and the PPIA. Almost all are standards of composition that identify the minimum amount of meat or poultry required in a product's formulation. The standards of identity established for products specify maximum amount of fat or moisture, the kind and minimum amount of meat and poultry, and any other ingredients allowed. The Agency does not have standards which specify minimum fat contents.

The NLEA provisions require color additives subject to certification by FDA to be identified on the food label. It also repeals the exemption to mandatory ingredient labeling that is provided for FDA-regulated products covered by standards of identity. NAS recommended that FSIS continue to allow "and/or" labeling of fats and oils in the ingredient statement on the condition that the food contains full nutrition labeling and that the stated saturated fat content declared on the nutrition panel represent the highest level that could be reached with any mixture of the listed fats and oils. It favored grouping sugars together parenthetically in the ingredient listing and believed consideration should be given to allowing manufacturers to use disjunctive labeling for sugars to increase flexibility and reduce costs. NAS also recommended that all standardized foods bear full ingredient labeling which should be carried over onto the labeling of processed products into which the standardized foods might be incorporated.

B. Issues and FSIS Tentative Position

FSIS believes that concerns relating to ingredients and standards, which currently attract the most attention, include possibly incomplete ingredient statements on packaged products, including standardized foods; the impact of "and/or" labeling of fats and oils on consumers' ability to judge the amount of saturated fat in a product; and the concern that existing food standards may impede development of substitute products that are lower in calories, fat, cholesterol, and sodium. Since FSIS requires full ingredient labeling on all meat and poultry products, including standardized products, this issue may not present a problem for the labeling of meat and poultry products.

The Agency believes that concerns about disjunctive labeling of fats and oils can be resolved by proper labeling of saturated fat. Because USDA standards of identity and composition do not require minimum fat contents, development of products with desirable characteristics is not hampered by minimum fat criteria. However, levels for minimum amounts of meat and poultry are a part of most standards. These criteria protect consumers against economic fraud and dilution of beneficial micronutrients and protein expected in certain products. Due to the shift of concern from problems connected to underconsumption to those associated with overconsumption of certain food components such as fat, FSIS will reassess this matter after completing its package of proposed rules on food labeling. The main question may center on how to prevent economic

adulteration of meat and poultry while still providing lower fat products demanded by many health-conscious consumers.

C. Questions for Public Response

(1) If the saturated fat content of food were to be listed on the nutrition panel and the stated level must conform to compliance limitations, what useful information would be provided to consumers by listing the common or usual names of vegetable fats or oils used interchangeably in finished products that would not be provided through use of the general term "vegetable oil"?

(2) Whereas the space on food labels is limited and the need to provide priority information to consumers is high, the Agency seeks comments on the value of requiring that ingredients of standardized or certain other foods that are incorporated into processed foods be declared by name on the label of the final products. Sublisting of ingredients in Worchestershire sauce, for example, alone would increase the ingredient listing of the processed food by about 12 components. Should such parenthetical sublistings be carried beyond secondary products and is there a level below which such information becomes irrelevant or confusing?

(3) If the labeling of sugars were mandatory and contents of total sugars including sugar alcohols were declared on the nutrition panel, what advantages would be gained by grouping sweeteners together in a parenthetical listing in descending order by weight under this term?

7. Compliance and Analytical Methods

A. Background. As part of its prior label approval process, FSIS requires manufacturers to submit analytical data to support nutrient values and content claims on foods labels. The Agency processed approximately 180,000 requests for label approvals in 1990, of which 35 to 50 percent contained nutrition information. FSIS conducts a nutrition labeling verification program to ensure the continued accuracy of label information after initial approval. FDA does not conduct prior label approval but places the responsibility for truthful labeling on industry. FDA has approved data bases for use in generic labeling of certain products, for example, broccoli, as indicated in its mandatory nutrition labeling proposal of July 19, 1990. In that proposal, FDA set forth procedures for determining labeling compliance and indicated that its compliance manual, which contains information on data base development and nutrition label computations, was being updated. FDA proposed to exempt products from certain specified compliance procedures for determining label compliance when nutrition information is founded on an FDA-approved data base, the nutrition label was computed following FDA guidelines, and the food was handled according to current good manufacturing practices to prevent nutrition loss.

NAS generally addressed compliance issues in terms of the adequacy of analytical methods for nutrient analyses. It recognized that current methods of food analysis do not permit precise measurement of nutrient values for many food components and that the limitations of certain methods hinder the analytical process due to the volume of analyses performed. NAS recommended flexibility in selection of analytical methods for label verification and stated "[a]lthough there are clear merits of the USDA system of label verification in terms of ensuring accuracy, management of the FDA system seems much less costly." It favored FDA and USDA certification of data bases containing representative values for use in labeling fresh food products. NAS argued that, if compliance procedures applied to the labeling of fresh foods required adherence to 20 percent tolerances as are currently applied to the labeling of packaged foods, the labeling, in order to be in regulatory compliance, might grossly distort the average composition of the products.

B. Issues and FSIS Tentative Position

FSIS recognizes that promulgation of mandatory nutrition labeling requirements for processed products under its jurisdiction and the encouragement of the labeling of fresh products under a voluntary program have compliance implications. FSIS supports the NAS recommendations on use of representative data base values for labeling of fresh products. The Agency believes that manufacturers of processed products, when such products are subject to mandatory nutrition labeling requirements, should certify that information submitted on requests for nutrition label approval complies with FSIS requirements. Compliance with nutrition labeling requirements rightfully should be ensured by each establishment.

FSIS intends to propose to require mandatory declaration of calories, calories from total fat, total fat, saturated fat, cholesterol, dietary fiber, total protein, total carbohydrates, sodium, calcium, iron, vitamin A and vitamin C as part of nutrition labeling. It is considering whether to require complex carbohydrates and sugars on the label.

FSIS seeks comments on the range of variation that should be allowed in regard to the declared value for the declaration of these food constituents on labeling of meat and poultry products.

Specifically, it requests information on food products in which nutrient components present in significant amounts may exhibit differences due to natural variation in indigenous nutrients in ingredients or which can occur during the production of food within good manufacturing practices. An example of such food product might be a frozen meat dinner containing carrots as a component and which might exhibit wide variation in vitamin A content due to the level of maturity of the carrots at harvest. The Agency is searching for reasonable tolerance levels which can reduce costs and frequency of testing to ensure compliance and which do not require overdeclaration or underdeclaration of nutrient content to remain in compliance such that the average composition of the food is greatly distorted.

8. Economic Impact

FSIS plans to establish regulations prescribing mandatory nutrition labeling of most processed meat and poultry products and voluntary nutrition labeling for fresh meat and poultry products. These regulations would require labeling changes for approximately 246,500 processed meat and poultry products. Although 35 to 50 percent of meat and poultry currently carry some form of nutrition labeling, the Agency's intended-to-be proposed format, serving sizes, descriptors, and other elements of nutrition labeling would require changes in all such labels. This estimated number of labeling does not take into account those products that may be exempt from nutrition labeling, such as packaged products too small to accommodate the required information.

In regard to fresh meat and poultry products, FSIS estimates a total of 94,500 labels that could be affected by this proposed rule. Since FSIS intends to propose a voluntary nutrition labeling program for fresh products, the impact of this proposed rule on fresh product producers would depend on the number of those producers opting to use nutrition labeling on their products. The requirements for mandatory nutrition labeling would also apply to the voluntary program.

In the past, FSIS has estimated the average cost of labeling changes at $150 per label. Using that estimate, nutrition labeling for processed meat and poultry products could result in an

approximately $37 million cost for labeling changes, and could result in about a $14 million cost for labeling changes for fresh meat and poultry products. However, because of the extensive labeling changes that would be required, FSIS requests current cost information from meat and poultry producers and processors in order to properly assess estimated labeling costs.

In addition, FSIS realizes that the meat and poultry industry would also incur costs associated with analytical testing of meat and poultry products for compliance with nutrition labeling requirements. As discussed in the previous section, FSIS is interested in receiving information which could result in the reduction of the costs of such testing.

FSIS believes that industry costs resulting from nutrition labeling would be justified by the benefits of the improved labeling provided to consumers. Additional costs incurred by industry are typically passed on to consumers. Since the purpose of a national food nutrition labeling program is to benefit consumers, FSIS believes that consumers are likely to accept a minimal increase in the price of foods. Nonetheless, the Agency solicits comments in this area from consumers, as well as industry, to determine the economic impact resulting from this proposed action.

Done at Washington, DC, on March 27, 1991.

Lester M. Crawford,

Administrator, Food Safety and Inspection Service.

[FR Doc. 91-7612 Filed 4-1-91; 8:45 a.m.]

BILLING CODE 3410-DM-M

Reader Aids

Federal Register

Vol. 56, No. 63

Tuesday, April 2, 1991

INFORMATION AND ASSISTANCE

Federal Register

Index, finding aids & general information	523-5227
Public inspection desk	523-5215
Corrections to published documents	523-5237
Document drafting information	523-5237
Machine readable documents	523-3447

Code of Federal Regulations

Index, finding aids & general information	523-5227
Printing schedules	523-3419

Laws

Public Laws Update Service (numbers, dates, etc.)	523-6641
Additional information	523-5230

Presidential Documents

Executive orders and proclamations	523-5230
Public Papers of the Presidents	523-5230
Weekly Compilation of Presidential Documents	523-5230

The United States Government Manual

General information	523-5230

Other Services

Data base and machine readable specifications	523-3408
Guide to Record Retention Requirements	523-3187
Legal staff	523-4534
Library	523-5240
Privacy Act Compilation	523-3187
Public Laws Update Service (PLUS)	523-6641
TDD for the hearing impaired	523-5229

FEDERAL REGISTER PAGES AND DATES, APRIL

13261-13390.....1
13391-13574.....2

CFR PARTS AFFECTED DURING APRIL

At the end of each month, the Office of the Federal Register publishes separately a List of CFR Sections Affected (LSA), which lists parts and sections affected by documents published since the revision date of each title.

3 CFR

Administrative Orders:
Presidential Determinations:
No. 91-24 of March 11, 1991.....13261
No. 91-25 of March 21, 1991.....13263
Proclamations:
6266.....13391

7 CFR

1001.....13393
1002.....13393
1948.....13265
Proposed Rules:
800.....13420
810.....13420
907.....13290
908.....13290

9 CFR

Proposed Rules:
317.....13564
381.....13564

12 CFR

Proposed Rules:
334.....13290
607.....13424
618.....13424

14 CFR

71.....13526
Proposed Rules:
107.....13552
108.....13552

15 CFR

770.....13265
771.....13265
773.....13265
774.....13265

19 CFR

4.....13394

20 CFR

416.....13266, 13365

21 CFR

520.....13395
Proposed Rules:
357.....13295

22 CFR

601.....13266

23 CFR

771.....13269

24 CFR

207.....13280
941.....13280

25 CFR

700.....13396

26 CFR

31.....13400
Proposed Rules:
1.....13366

29 CFR

Proposed Rules:
92.....13299

30 CFR

7.....13404
70.....13404
75.....13404
Proposed Rules:
913.....13300

31 CFR

515.....13283

32 CFR

210.....13284

33 CFR

1.....13520
53.....13404
117.....13285

34 CFR

441.....13522

40 CFR

261.....13406
271.....13411
Proposed Rules:
61.....13368
86.....13301
600.....13301

41 CFR

Ch. 132.....13286

42 CFR

Proposed Rules:
493.....13430

43 CFR

Public Land Orders:
2344 (Amended by PLO 6839).....13413
6839.....13413

45 CFR

60.....13388

47 CFR

1..... 13413
63..... 12413
73..... 13414, 13415
95..... 13289

Proposed Rules:

73..... 13445

48 CFR

Proposed Rules:

515..... 13301
543..... 13301
552..... 13301

50 CFR

285..... 13415
611..... 13365
644..... 13416
663..... 13365
672..... 13418

Proposed Rules:

625..... 13303

LIST OF PUBLIC LAWS

Last List April 1, 1991

This is a continuing list of public bills from the current session of Congress which have become Federal laws. It may be used in conjunction with "P L U S" (Public Laws Update Service) on 202–523–6641. The text of laws is not published in the **Federal Register** but may be ordered in individual pamphlet form (referred to as "slip laws") from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402 (phone, 202–275–3030).

H.R. 1284/Pub. L. 102–21

Emergency Supplemental Assistance for Israel Act of 1991. (Mar. 28, 1991; 105 Stat. 70; 1 page) Price: $1.00

H.R. 1316/Pub. L. 102–22

Performance Management and Recognition System Amendments of 1991. (Mar. 28, 1991; 105 Stat. 71; 2 pages) Price: $1.00

S.J. Res. 53/Pub. L. 102–23

To designate April 9, 1991 and April 9, 1992, as "National Former Prisoner of War Recognition Day". (Mar. 28, 1991; 105 Stat. 73; 1 page) Price: $1.00

S.J. Res. 83/Pub. L. 102–24

Entitled "National Day of Prayer and Thanksgiving". (Mar. 28, 1991; 105 Stat. 74; 1 page) Price: $1.00

Would you like to know...

if any changes have been made to the Code of Federal Regulations or what documents have been published in the Federal Register without reading the Federal Register every day? If so, you may wish to subscribe to the *LSA (List of CFR Sections Affected)*, the *Federal Register Index*, or both.

LSA • List of CFR Sections Affected

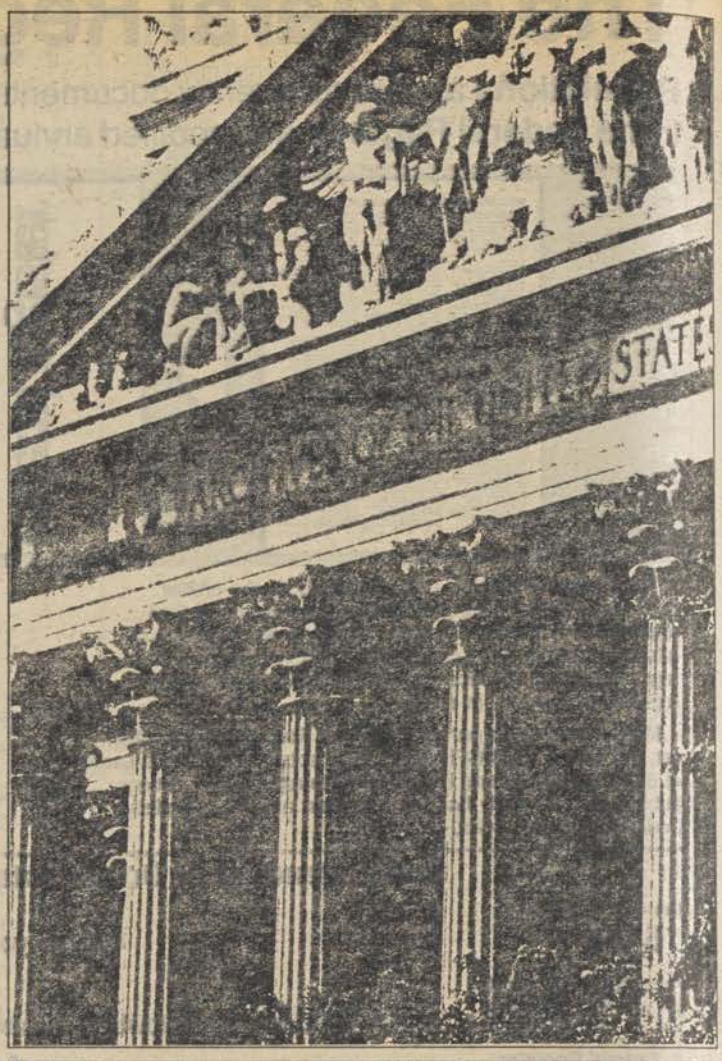
The LSA (List of CFR Sections Affected) is designed to lead users of the Code of Federal Regulations to amendatory actions published in the Federal Register. The LSA is issued monthly in cumulative form. Entries indicate the nature of the changes—such as revised, removed, or corrected.
$21.00 per year

Federal Register Index

The index, covering the contents of the daily Federal Register, is issued monthly in cumulative form. Entries are carried primarily under the names of the issuing agencies. Significant subjects are carried as cross-references.
$19.00 per year.

A finding aid is included in each publication which lists Federal Register page numbers with the date of publication in the Federal Register.

Note to FR Subscribers:
FR Indexes and the LSA (List of CFR Sections Affected) are mailed automatically to regular FR subscribers.



Superintendent of Documents Subscriptions Order Form

Order Processing Code:
*6483

Charge your order. It's easy!

Charge orders may be telephoned to the GPO order desk at (202) 783-3238 from 8:00 a.m. to 4:00 p.m. eastern time, Monday-Friday (except holidays).

☐ **YES,** please send me the following indicated subscriptions:

☐ LSA • List of CFR Sections Affected—one year as issued—$21.00 (LCS)

☐ Federal Register Index—one year as issued—$19.00 (FRSU)

1. The total cost of my order is $_____. All prices include regular domestic postage and handling and are subject to change. International customers please add 25%.

Please Type or Print

2. _____
(Company or personal name)

_____
(Additional address/attention line)

_____
(Street address)

_____
(City, State, ZIP Code)

(_____)
(Daytime phone including area code)

3. **Please choose method of payment:**

☐ Check payable to the Superintendent of Documents

☐ GPO Deposit Account ☐☐☐☐☐☐☐☐-☐

☐ VISA or MasterCard Account

☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐

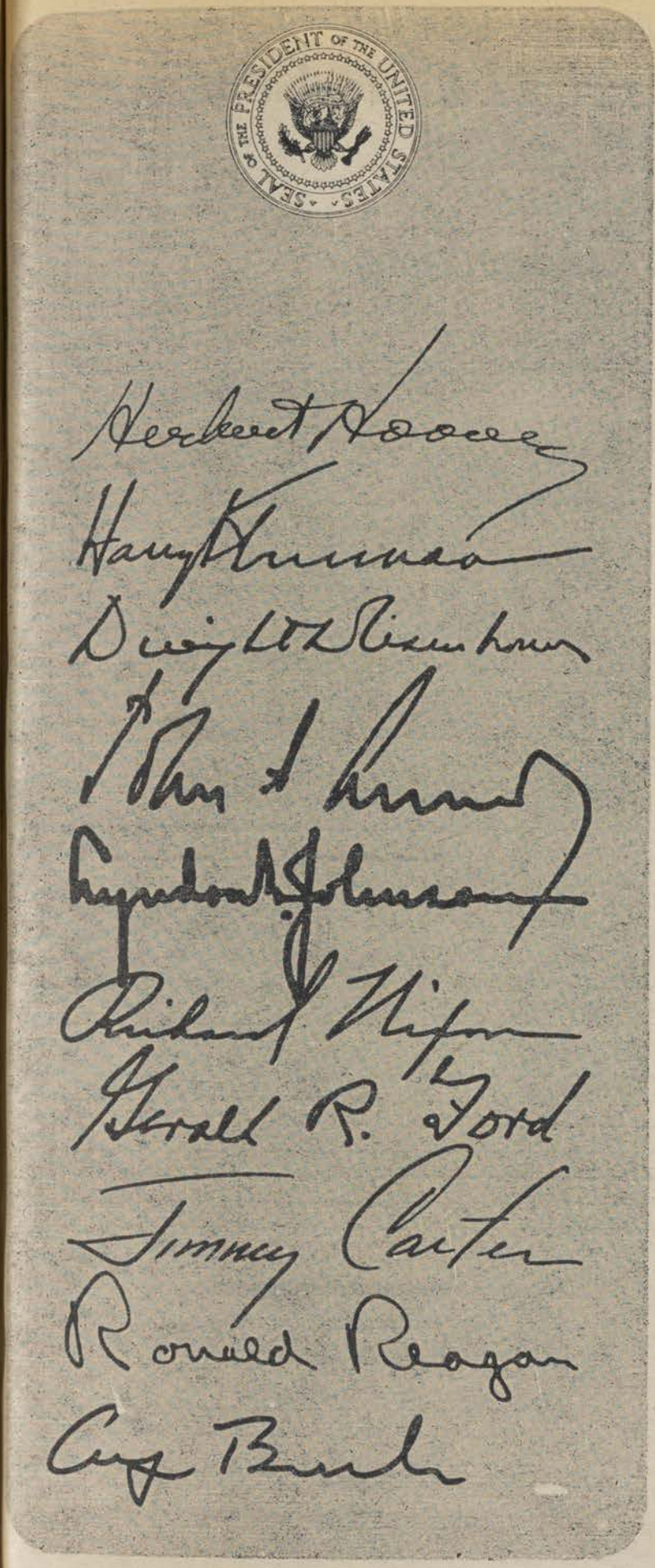
_____
(Credit card expiration date)

Thank you for your order!

_____
(Signature)

(REV 10-1 88)

4. **Mail To:** Superintendent of Documents, Government Printing Office, Washington, DC 20402-9371



Public Papers of the Presidents of the United States

Annual volumes containing the public messages and statements, news conferences, and other selected papers released by the White House.

Volumes for the following years are available; other volumes not listed are out of print.

Jimmy Carter

1980–81
(Book II) $22.00

1980–81
(Book III) $24.00

Ronald Reagan

1981 ..... $25.00

1982
(Book II) $25.00

1983
(Book I) $31.00

1983
(Book II) $32.00

1984
(Book I) $36.00

1984
(Book II) $36.00

1985
(Book I) $34.00

1985
(Book II) $30.00

1986
(Book I) $37.00

1986
(Book II) $35.00

1987
(Book I) $33.00

1987
(Book II) $35.00

1988
(Book I) $39.00

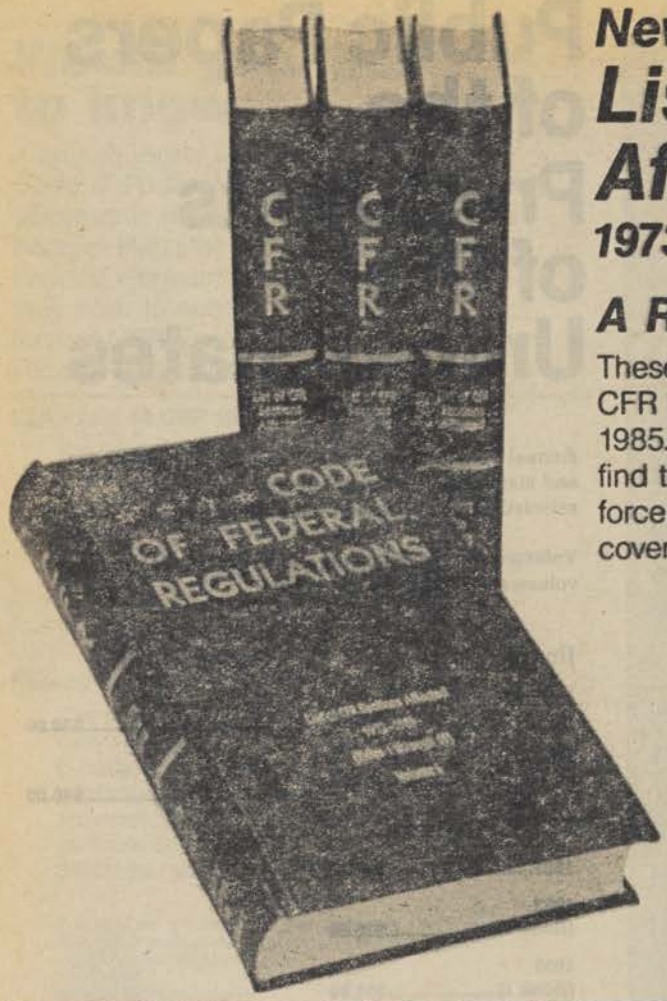
George Bush

1989
(Book I) $38.00

1989
(Book II) $40.00

Published by the Office of the Federal Register, National Archives and Records Administration

Order from Superintendent of Documents, U.S. Government Printing Office, Washingon, D.C. 20402-9325.



New Publication

List of CFR Sections Affected

1973-1985

A Research Guide

These four volumes contain a compilation of the "List of CFR Sections Affected (LSA)" for the years 1973 through 1985. Reference to these tables will enable the user to find the precise text of CFR provisions which were in force and effect on any given date during the period covered.

Volume I (Titles 1 thru 16).....$27.00
Stock Number 069-000-00029-1

Volume II (Titles 17 thru 27).....$25.00
Stock Number 069-000-00030-4

Volume III (Titles 28 thru 41).....$28.00
Stock Number 069-000-00031-2

Volume IV (Titles 42 thru 50).....$25.00
Stock Number 069-000-00032-1

Superintendent of Documents **Publications** Order Form

Order Processing Code:
***6962**

Charge your order. It's easy!

To fax your orders and inquiries–(202) 275-2529

Please Type or Print (Form is aligned for typewriter use.)

Prices include regular domestic postage and handling and are good through 7/91. After this date, please call Order and Information Desk at 202-783-3238 to verify prices. International customers please add 25%.

Qty.	Stock Number	Title	Price Each	Total Price
1	021-602-00001-9	Catalog–Bestselling Government Books	FREE	FREE
			Total for Publications	

(Company or personal name) (Please type or print)

(Additional address/attention line)

(Street address)

(City, State, ZIP Code)

( )
(Daytime phone including area code)

Mail To: Superintendent of Documents
Government Printing Office
Washington, DC 20402-9325

Please Choose Method of Payment:

☐ Check payable to the Superintendent of Documents

☐ GPO Deposit Account ☐☐☐☐☐☐☐–☐

☐ VISA or MasterCard Account

☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐

(Credit card expiration date)

Thank you for your order!

(Signature)

Rev 1-91